

# *Tidal Fisheries Advisory Commission Meeting*

Wednesday  
February 17, 2010

*Sponsored by the*

Maryland Department of Natural Resources  
Annapolis, Maryland

*Held at the*

Maryland Department of Natural Resources  
Annapolis, Maryland

***Maryland DNR  
Tidal Fisheries Advisory Commission Meeting***

February 17, 2010

**TFAC Members Present:**

John Brooks, Chair

Mike Benjamin  
Russell Dukes  
William Goldsborough  
James Gross  
Andrea A. Jacquette  
Brian Keehn  
Lawrence Simms  
Richard Young

**TFAC Members Absent:**

Stephen Gordon  
Greg Price  
John Van Alstine

**Maryland DNR Fisheries Service:**

Marty Gary  
Harley Speir (*on behalf of Tom O'Connell*)

**Maryland DNR  
Tidal Fisheries Advisory Commission Meeting**

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KEYNOTE: "---" denotes inaudible in the transcript.

E V E N I N G   S E S S I O N

(6:36 p.m.)

**Welcome and Announcements*****by John Brooks, Chair,******and Marty Gary, DNR***

MR. BROOKS: Call the meeting to order. First of all, Marty has got some announcements and some other items to talk about.

MR. GARY: Thank you, Mr. Chairman. Lisa and Audio Associates, are you all set? Okay. As always, we will have the meeting recorded and verbatim minutes available within 10 days of the meeting. They will be posted on the website.

They are fairly voluminous. They are about 150 pages, I think, so if anybody does want them, I think we will go ahead and get them and send them off to you, but just as soon save a few trees and have you reference those on the website if you can. But let me know if you do want to have those for a record.

First thing I would like to do is just some business that I have been trying to clean up -- designated proxies. I sent out a couple e-mails, had some conversations, but we still have some commissioners that we do not have designated proxies for, and it could be that you don't want one, which is fine. It is your prerogative.

But I just want to kind of go through this list and

1 make sure really quick, make sure we have got this right.

2 Mike Benjamin, I don't have a proxy for you, or do  
3 you have one? Decline?

4 MR. BENJAMIN: I am okay.

5 MR. GARY: No proxy.

6 MR. BENJAMIN: I don't need one.

7 MR. GARY: Okay. Jack, for you it is Ben Parks.

8 Russell, I do not have proxy for you.

9 MR. DUKES: Put down Jimmy Glover.

10 MR. GARY: Jimmy Glover?

11 MR. DUKES: Yes.

12 MR. GARY: Okay, and I will need to get his contact  
13 information. You can hand that to me whenever you want.

14 MR. DUKES: I will do that.

15 MR. GARY: Steve Gordon is not here, and he did tell  
16 me he was going to have his proxy attend, who is Don Flax. Is  
17 J.R. -- he was supposed to come. I did talk to J.R. over the  
18 phone. He did indicate he was coming. His proxy is Bob  
19 Evans. Hopefully we will still see J.R. tonight.

20 Andrea, you are here but I understand Chuck White is  
21 your proxy, correct?

22 MS. JACQUETTE: Yes.

23 MR. GARY: Okay. Brian is here, and Brian, if I  
24 have this correct, Glenn James is your proxy.

25 MR. KEEHN: Yes.

1           MR. GARY: Greg Price is not here. Greg is one of  
2 three of our commissioners that the only way I can communicate  
3 is by phone. I did call three times last week. I got his  
4 home one time and talked to the lady of the household and left  
5 a message, and so it is my understanding that Greg got the  
6 message and would attend but we don't have him here and I do  
7 not have a proxy for Greg Price.

8           John Van Alstine -- I talked to him as recently as  
9 yesterday and he indicated he was coming.

10          MR. SIMMS: He has got strep throat so he is not  
11 coming because he doesn't want to give it to the rest of us  
12 too.

13          MR. BROOKS: Thank him for me.

14          MR. GARY: Good move for John. I have got to  
15 clarify John's proxy. I don't have that for him.

16          MR. SIMMS: I think his proxy is Luongo.  
17 George Luongo.

18          MR. GARY: George Luongo. Okay. I will get that  
19 straight. And then -- Mike Anderson is your proxy, correct?

20          (No response)

21          MR. GARY: And then Larry, I don't have a proxy for  
22 you.

23          MR. SIMMS: Russell Dize.

24          MR. GARY: Russell. I think -- did I miss anybody?  
25 Bill, you are designee here. Is it Mack?

1 MR. GOLDSBOROUGH: Yes.

2 MR. GARY: Did I miss anybody? I got everybody.

3 All right.

4 Just one other item, Chairman. Our regulatory  
5 group -- and actually this is Harley's group, he could just  
6 about do this -- Sarah Widman asked me to let the  
7 commissioners know that they are looking for some input from  
8 the commission on ideas on how we can better get public  
9 notices to the watermen's community.

10 Currently, public notices are typically put in the  
11 newspaper. Usually it is the Baltimore Sun, but sometimes it  
12 is Eastern Shore paper, southern Maryland. They are typically  
13 put in 48 hours before they are to be effective.

14 Our experience, and you can tell us whether we are  
15 right or wrong, is that normally most people don't dig into  
16 the area where the public notices are placed, so we are really  
17 trying to find ways that we can get these out to you for  
18 things like striped bass closure, openings of particular  
19 oyster bars, a variety of different issues that are addressed  
20 through public notices.

21 Sarah mentioned that there are some ideas we have.  
22 We have a website obviously. We have e-mail capability. We  
23 have text messaging, and I personally haven't dealt with any  
24 of the crabbers or other watermen that have been part of  
25 Brenda Davis's pilot project to text message alerts to



1 crabbers. That might be a good idea.

2 So you can give me some ideas now if you have a  
3 couple off the cuff that you would like to share, or at least  
4 think about it and be prepared to come back at the March  
5 meeting. I will give you a reminder. We would just like to  
6 do a better job of getting some of this information to you  
7 that is time sensitive.

8 MR. BROOKS: Anybody got any thoughts or ideas of  
9 how they can better get the word out?

10 MR. DUKES: Can you put it in the Star Democrat?

11 MR. GARY: That is one of the ones, Russell, I think  
12 we had traditionally -- Harley?

13 MR. SPEIR: Yes, we did.

14 MR. GARY: I think that is what it was.

15 MR. DUKES: That is the main paper there on the  
16 shore. That and the --

17 MR. BROOKS: You got the Salisbury Times down below.

18 MR. DUKES: Yes.

19 MR. GARY: I think one of the issues we are having  
20 with the paper -- I don't know if it applies to the Star  
21 Democrat, but when it goes in the Sun papers, it is put in a  
22 special section.

23 MR. : And nobody reads it.

24 MR. GARY: If somebody's life depends on finding  
25 that thing -- so I don't know if that is the case with the

1 Star Democrat. Are you familiar with the public notices?

2 MR. DUKES: Yes, they have it right at the beginning  
3 of the --

4 MR. BROOKS: Classifieds?

5 MR. DUKES: Yes, classifieds.

6 MR. GARY: Is that a good spot for the watermen to  
7 pick up on?

8 MR. GARY: Yes. If you start to go to the  
9 classifieds, right there you got --

10 MR. BROOKS: It only comes two days a week now. I  
11 think what he is looking for is, you know -- he has got the  
12 print media but, you know, like text messaging. It was  
13 suggested if you get a network of all these phone numbers and  
14 I guess they got the capability of putting it out, pushing a  
15 button and sending it out to 300 phones, something like that.

16 MR. SIMMS: Text messaging sounds like a pretty good  
17 idea.

18 MR. DUKES: Yeah.

19 MR. GARY: It does seem as though cell phones are  
20 something that you all are using pretty much on the water.

21 MR. BROOKS: I don't think too many people are  
22 without a cell phone these days.

23 MR. DUKES: You use cell phones more than you do the  
24 radio on the boat.

25 MR. GARY: Well, if something else comes to mind,

1 please let us know.

2 MR. YOUNG: I got a text message last week about the  
3 rockfish closing -- the gill net season.

4 MR. BROOKS: What is that?

5 MR. YOUNG: I got a text message last week about the  
6 gill net season closing.

7 MR. GARY: Well, maybe they went ahead and  
8 piggybacked on that. You know anything about that?

9 MR. BROOKS: So what can we tell the people in our  
10 communities about how to subscribe to this text service? Call  
11 you?

12 MR. SPEIR: Yes, I think Brenda Davis --

13 MR. BROOKS: Call Brenda Davis?

14 MR. YOUNG: I think there is a link on the web page.  
15 I think I just saw it on the fishery's web page, to get  
16 crabbing -- to get text messages on the crab regulations.

17 MR. GARY: So maybe what we will do is we will put  
18 this up on our website, have a point of contact where we can  
19 establish -- it may or may not be Brenda. I don't want to  
20 surprise her if she is dealing specifically with the  
21 crabbers.

22 Also, I guess we could put it in the Waterman's  
23 Gazette, and if there is any other print publication. Use the  
24 Star Democrat and others, and hopefully we will rely on the  
25 community itself to go ahead and spread the word around. That

1 works. Other than that I think we are good, Mr. Chair.

2 MR. BROOKS: Thank you. Any questions for Marty?

3 (No response)

4 MR. BROOKS: Okay. Nick, you are up with the NRP  
5 Report.

6 MR. POWELL: I don't have a proxy.

7 MR. BROOKS: You don't need one.

8 **NRP Report**

9 ***by Lt. Nick Powell***

10 LT. POWELL: Start off -- just for January and  
11 February up to last week. General tidal fish, the 10<sup>th</sup> and  
12 11<sup>th</sup> of January in Cecil County, officers responded to an  
13 complaint of a hoop net that was unmarked near Owen's Landing  
14 in Susquehanna. The net was removed and the investigation  
15 continues. Nobody has stepped forward to claim it. We have  
16 ideas but we can't charge anybody on ideas.

17 On the 28<sup>th</sup> in Dorchester County, we charged a  
18 waterman with an unattended gill net. It was a perch net. I  
19 guess they were too far away.

20 In striped bass, on the 11<sup>th</sup> in Queen Anne's County,  
21 11<sup>th</sup> of January, two different commercial watermen were cited  
22 with oversized striped bass. One was also cited for an  
23 oversized gill net. And in Kent County on the 18<sup>th</sup>, they had a  
24 waterman with over-the-limit striped bass; 170 pounds of  
25 striped bass were seized.

1           Moving to oysters and clams, on the 8<sup>th</sup> in Kent  
2 County, a letter of suspension was served on William H. Beck  
3 that suspended him from oyster harvesting, buying and selling  
4 for the remainder of the season, oyster season.

5           On the 13<sup>th</sup> in St. Mary's County, officers conducted  
6 a special enforcement control, concentrating on oyster  
7 activity in the St. Mary's River. Two boats and one seafood  
8 establishment were checked with no violations.

9           In Talbot County on the 21<sup>st</sup> of January, we charged  
10 Bartlett Wade Murphy Jr., Edward Bruce Lowery Jr., Bobby Lee  
11 Gowe and Richard Nicholas Fluharty, all from Tilghman, with  
12 oyster-poaching related charges stemming from a patrol on  
13 Broad Creek at 1:30 a.m.

14           Four watermen and two vessels were illegally power  
15 dredging for oysters. No nav lights. We were able to observe  
16 their activity with night vision goggles. We found two men on  
17 the first vessel culling oysters with lights strapped to their  
18 heads. They were identified as Murphy and Lowery. They were  
19 7,500 feet onto a hand tong area only, where power dredging is  
20 prohibited at all times.

21           The second boat gunned its engine when they saw the  
22 officers at the first boat, attempting to flee. After a few  
23 minutes they stopped and were approached and arrested without  
24 further incident. They were taking oysters more than 8,000  
25 feet into the hand tong area. They also found a glow stick in

1 the water used to mark their spot.

2           They were all charged with power dredging outside of  
3 legal hours, power dredging in a hand tong only area,  
4 possession of oysters on board a vessel more than two hours  
5 after sunset. They charged the two owners of the boats with  
6 operating a vessel without nav lights. The court date is  
7 March 18.

8           The 21<sup>st</sup> also in Somerset County, we conducted  
9 another saturation patrol and everybody was good. St. Mary's  
10 County on the 26<sup>th</sup> of January. Special enforcement patrol on  
11 oyster activity. 9 boats were checked. No violations.

12           On the 27<sup>th</sup> in Dorchester County, they observed a  
13 commercial waterman harvesting oysters in a sanctuary.  
14 Zachary Seaman was charged with harvesting oysters on the  
15 sanctuary. The same subject was charged with possession of  
16 over-the-limit oysters in December, where he had over 30  
17 bushels.

18           The 2<sup>nd</sup> of February in Talbot County, the letter of  
19 suspension was served on Edward Bruce Lowery, which suspended  
20 him from oyster harvesting, buying and selling for the  
21 remainder of the season. And also the same date in Dorchester  
22 County, a letter of suspension was served on Zachary Seaman,  
23 which suspended him from oyster harvesting, buying and selling  
24 for the remainder of the season.

25           On the 4<sup>th</sup> in Somerset County, we charged an

1 individual with oyster violations. The subject, Philip David  
2 Horner of Deale, was charged with multiple charges after he  
3 was observed power dredging oysters at 5:00 a.m. in Tangier  
4 Sound west of Deal Island. He didn't have his nav lights on,  
5 and he was wearing the light on his head to assist with  
6 illegal activity.

7           They used the GPS and radar to locate the vessel,  
8 which was found 12,700 feet onto a patent tong area that was  
9 closed for dredging. They boarded his vessel and found that  
10 it contained 6 ½ bushels of oysters, and 15 percent were found  
11 to be undersized.

12           He was charged with oystering after hours, power  
13 dredging in a patent tong area, possession of undersized  
14 oysters, possession of oysters on a vessel between sunset and  
15 sunrise, and operating without proper navigational lights. He  
16 is set to appear April 15<sup>th</sup> in Somerset County District Court.

17           Crabs, officers responded to Saint Mary's County on  
18 the 15<sup>th</sup> of January. Crabber working closed season off Smith  
19 Point. One citation and one warning were issued for the  
20 violations.

21           Then there is non-tidal fishing. On the 8<sup>th</sup> and the  
22 28<sup>th</sup> in Garrett County, officers regularly check fishing  
23 activity on North Branch of Potomac River Special Trout  
24 Management Area. Minimal activity, no violations.

25           We met with the West Virginia counterparts to plan a

1 joint patrol in the area. At the same time in Garrett and  
2 Allegany Counties, officer regularly checked ice fishermen in  
3 Deep Creek Lake, Lake Habeeb and Rocky Gap State Park, Piney  
4 Reservoir and Savage River Reservoir. Yellow Perch and  
5 Bluegills comprised the majority of the catch, and a couple of  
6 the over-the-limit cases were made.

7 The Savage River is now empty. Any questions?

8 MR. SIMMS: I would like to give you a big hand for  
9 catching those poachers. It was about three years too late  
10 but at least it is done. That is a big help.

11 MR. BROOKS: It was long overdue, and you guys have  
12 done a nice job.

13 MR. SIMMS: The first thing that you have there  
14 about yellow perch. In ice conditions, you know, how do you  
15 work at it if ice pulls the buoy off the yellow perch pot?

16 LT. POWELL: Usually you can tell. We took the net  
17 up, there weren't any cut lines where it had been marked.

18 MR. SIMMS: No lines, no place where a buoy had been  
19 or anything?

20 LT. POWELL: No. We can tell usually. It would be  
21 something that was there that marked it, but there wasn't on  
22 this one. I think very few people fish up that area with a  
23 hoop net, and he may have felt that it was no big deal, but  
24 some people were catching the net and reported it to us.

25 The guy was seen a couple days later. Thought he



1 was fishing another illegal net but actually he was marking  
2 his net.

3 MR. BROOKS: Any other questions for Nick?  
4 Comments?

5 (No response)

6 MR. BROOKS: Okay, thanks, Nick. Appreciate it.  
7 Okay, next we are moving around a little bit. The Federal  
8 Blue Crab Compensation Program. Stephan?

9 **Federal Blue Crab Compensation Program**

10 ***by Stephan Abel***

11 MR. ABEL: Good evening. Stephan Abel from the  
12 Oyster Recovery Partnership. We are working with the Maryland  
13 Department of Natural Resources to help oversee the derelict  
14 gear retrieval program and the bar rehabilitation program as  
15 part of the Federal Crab Disaster funds.

16 Several months ago, the state, this being DNR, sent  
17 a notice, notification advertisement to all license holders in  
18 the state. Out of the 6,000 or so individuals, 975  
19 individuals submitted an application if you will based on a  
20 set of criteria to actually conduct the work starting in the  
21 spring.

22 Looking at the bar rehabilitation program, doing  
23 that first, there were 411 boat captains that applied, 142  
24 crew. There were set criteria that were established based on  
25 having valid license, having a crab harvest history, certain

1 thresholds regarding violations.

2 Out of the 411 captains, and they were the ones that  
3 were checked, 99 individuals were ineligible, not meeting the  
4 criteria. There are still 17 pending based on reviewing  
5 violation histories, which give us 295 boat captains and 142  
6 crewmen that are slated to work.

7 Now those are broken out over 4 regions being in the  
8 upper western shore, lower western shore, upper eastern shore  
9 and lower eastern shore with the majority of the boats being  
10 down in the mid- to lower eastern shore of 175 vessels.

11 Right now the state is waiting on a permit from the  
12 Army Corps of Engineers to actually conduct the work, which we  
13 expect to have in the next week or so, so I foresee the work  
14 commencing with this group starting probably early to mid-  
15 March. The notification letters for acceptance into the  
16 program is actually going out this week.

17 On the other front with the derelict gear retrieval  
18 program, the bursar has been assisting, the Maryland  
19 Watermen's Association has been assisting us with this  
20 program. Out of the 293 boat captains that applied, 119  
21 crewmen -- that is 412 folks that applied for this  
22 program -- 58 were ineligible, that is the boat captains,  
23 which gives us 235 boat captains that are slated to work and  
24 119 crewmen.

25 This program is actually commencing on Monday in the

1 Patuxent River. There are 8 regions around the bay that were  
2 selected in part from watermen input, and then subsequently  
3 sonar technology was employed basically to identify the  
4 derelict gear at the mouths of major rivers.

5 So the first week, which is next week, will run for  
6 5 days in the Patuxent River area, and there are six boats.

7 The following week, there will be the two-week  
8 period outside the Western Rhode River, also up in the  
9 Patapsco River, on the week of March 1<sup>st</sup>. It goes over to the  
10 Eastern Shore, Tangier, East and West Channel starting May 8<sup>th</sup>.  
11 Mouth of Little Choptank will be May 8<sup>th</sup> as well. Mouth  
12 of --- Essex and the Smith Islands on the 15<sup>th</sup>. Rock Hall area  
13 will be on the 22<sup>nd</sup>, and Northeast River will be on the 29<sup>th</sup>.

14 Recognizing all these dates are subject to change,  
15 being weather and ice specifically. Each one of these areas  
16 have been mapped with bottom sonar, so they have a firm idea  
17 based on the number of pots that are out there, and they are  
18 in the thousands. All the different boats will be assigned  
19 basically to go out and retrieve those pots.

20 Prior to the work actually commencing, there is  
21 going to be a meeting that is going to be held the week prior,  
22 where specifics on the individual areas will be presented to  
23 them, gear discussed, as well as how best to -- the gear  
24 disposal, if you will, and those elements will be discussed in  
25 that meeting.

1 I foresee all these programs being done by  
2 mid-April at the latest. Any questions?

3 MR. BROOKS: Questions for Stephan? Comments?

4 MR. GROSS: Stephan, you said in the Western Rhode  
5 River, it is going to be a two-week project now --

6 MR. ABEL: All captains and crew of all these  
7 programs get 5 days worth of work, so what we are doing is,  
8 there were 53 boats that applied for, or actually are going to  
9 be working in that area, so we are splitting up into 2 groups.

10 MR. GROSS: Right.

11 MR. ABEL: It is just easier to manage, and that way  
12 there is no overlap and guys on top of one another. So based  
13 on the area, just the density of the area.

14 MR. GROSS: But they are getting 5 days.

15 MR. ABEL: Everybody gets 5 days. In the case of  
16 the derelict gear, the boat captains are getting \$400 a day,  
17 with the crewmen getting \$150.

18 Boat captains are able to keep, if you will, some of  
19 the zincs and rebar off the pots. And the group at large will  
20 decide, for those pots that are actually still workable, the  
21 group will decide how they want to dispose of them, either  
22 break them up between them all, throw them out, whatever the  
23 case may be, the group will decide as a group what they want  
24 to do.

25 In the case of the bar rehabilitation, that program

1 | though, boat captains get \$500 a day, with the crewmen getting  
2 | \$150, and those bars will be identified once we have the  
3 | permit in hand as far as what areas and where and what needs  
4 | to be done.

5 |           MR. DUKES: Is that 5 days too, Stephan?

6 |           MR. ABEL: Yes, everything is 5 days.

7 |           MR. DUKES: And you said Rock Hall is the 22<sup>nd</sup> of  
8 | what?

9 |           MR. ABEL: March.

10 |           MR. DUKES: March? All right.

11 |           MR. ABLE: For the derelict gear, and it hasn't been  
12 | identified for the, as far as the region goes and where, for  
13 | bar rehab.

14 |           MR. BROOKS: From the commission, any other  
15 | questions or comments for Stephan?

16 |           (No response)

17 |           MR. BROOKS: I got one quick thing. You talk about  
18 | mid-April for the derelict gear. How are you going to deal  
19 | with that with fresh pots going into the water?

20 |           MR. ABEL: Oh, the derelict gear is going to be  
21 | done.

22 |           MR. BROOKS: It will be done?

23 |           MR. ABEL: Yes.

24 |           MR. BROOKS: Oh, you are talking about bar cleaning  
25 | then. Okay, okay.

1 MR. ABEL: Yes, derelict gear, the last program that  
2 will start will be Northeast, and that will be either the week  
3 of the 29<sup>th</sup>, up in the Northeast River. There are only 7 guys  
4 working that so we will be able to control that fairly easily.

5 MR. BROOKS: Okay. Any other questions for Stephan?

6 (No response)

7 MR. BROOKS: Okay, thank you. Okay, Harley,  
8 Legislative and Regulatory Update?

9 **Legislative and Regulatory Update**

10 ***by Harley Speir***

11 MR. SPEIR: We have had hearings on suspension  
12 provisions for nonreporting. These provisions would require  
13 that reports be in within 50 days, or you would be subject to  
14 a violation which could result in a suspension.

15 We are doing this rather than simply at the end  
16 of the year refraining from renewing licenses. It is just not  
17 working. People are turning in all their reports at the end  
18 of the year. We need the reports in a timely fashion, so this  
19 should be effective, this regulation, will be effective on the  
20 22<sup>nd</sup> of this month.

21 The Penalty Workgroup put together a new, revised  
22 point system. That will be also effective on the 22<sup>nd</sup>. The  
23 catch-and-release regulation -- that affects mostly, obviously  
24 recreational, but that will also be effective on March 22<sup>nd</sup>,  
25 not February.

1           For upcoming regulations, we have the Snapper  
2 Grouper Regulation, which would attempt to bring our  
3 regulations on these species in line with the South Atlantic  
4 Management Council's regulations.

5           We also have an upcoming change in the target number  
6 for commercial licenses. We are changing the targets for the  
7 LCC license to 3,318. This is a reduction of about, I think  
8 500 or 600 licenses. This is a result of the license buyback,  
9 plus the frozen licenses.

10           We did send out letters notifying the inactive  
11 crabbers of their options for either freezing a license or  
12 electing to take the male-only harvest. That would be for  
13 this upcoming season.

14           As far as legislation, we have 10 Senate bills and 8  
15 House bills that affect fish and fisheries. We have -- I  
16 won't go through them. I think they are in your package.

17           But we have hearings Friday on a transfer and  
18 suspension bill, HB 98, and expansion of patent tongs in the  
19 Patuxent River, which is HB 284, and HB 303, which would  
20 require us to keep all oyster bars open unless an area must be  
21 closed for public safety or Homeland Security. It would  
22 remove our authority to open and close bars on any other  
23 basis.

24           There is also one about mobile seafood or produce  
25 vendors, and I think that mostly deals with produce vendors,

1 but seafood vendors are also mentioned in it.

2 I think, unless you have got a particular question  
3 on any of these, I think that is all I have got for  
4 legislation. We do have a couple of issues here, and Joe  
5 Heckwolf is going to talk about those from a legal standpoint.

6 **Comments**

7 ***by Joe Heckwolf, Esq.***

8 MR. HECKWOLF: How are you doing? My name is Joe  
9 Heckwolf. I am a staff attorney with the Office of the  
10 Attorney General to the Department of Natural Resources, and  
11 Tom and Harley asked me to come and address a couple of  
12 technical legal issues that are in one of the bills.

13 Specifically, HB 98 will allow the department to  
14 suspend someone's license when they have received a probation  
15 before judgment or when they have entered a plea of nolo  
16 contendere and that plea has been accepted by the court.

17 I just wanted to clarify exactly what a PBJ,  
18 probation before judgment, and nolo contendere means. In  
19 Maryland to receive probation before judgment, you have to  
20 either plead guilty, be found guilty or plead nolo contendere.

21 So I think we are all fairly comfortable that if you  
22 are found guilty or you plead guilty, the department should  
23 have the authority to suspend your license.

24 A nolo contendere, a nolo contendere means that you do  
25 not wish to contest the charges, which is essentially saying



1 that you agree that the state can prove beyond a reasonable  
2 doubt that you have committed the violations that you are  
3 charged with committing, but that you are not pleading guilty  
4 or you are not pleading innocent, but you acknowledge that the  
5 state can prove beyond a reasonable doubt that you have done  
6 what they are charging you have done.

7           Nolo contendres are typically used -- I mean, for  
8 instance, if you were charged with driving negligently in a  
9 criminal court, and you also have a tort claim, you are also  
10 being sued by the person who you hit, you wouldn't want to  
11 plead guilty because that would be damaging for you in your  
12 civil case. That is usually when nolo contendere is used.

13           The reason we like to use nolo contendere pleas as a  
14 basis for administrative action is if you don't contest the  
15 charges in criminal court, we would like the opportunity then  
16 to go before an administrative law judge and prove that you  
17 have done the violations that are -- that carry administrative  
18 sanctions.

19           That is really what these two, these provisions are  
20 about. If you are essentially admitting to or don't wish to  
21 contest the fact that you have done certain violations, we  
22 think that should be the basis of an administrative penalty.

23           Does anybody have any questions specifically on  
24 that?

25           MR. YOUNG: My concern is this probation before

1 judgment. In Maryland, probation before judgment is not a  
2 conviction. It is not conviction.

3 MR. HECKWOLF: You are absolutely right.

4 MR. YOUNG: Okay, so wait a minute now. You are  
5 telling me that I am running the risk of getting my license  
6 suspended when I haven't been convicted of anything.

7 MR. HECKWOLF: Okay. A conviction means that you  
8 are found guilty and that you are sentenced. That means that  
9 you received -- if the judge finds that you have done what you  
10 are charged of doing, and then you are penalized for that.

11 Probation before judgment -- there is a finding of  
12 guilt by the court. You are pleading guilty or you are found  
13 guilty by the court. The judge stays the entrance of a  
14 sentence and sentences you to probation essentially, and if  
15 you comply with the conditions of probation, then you can get  
16 that record expunged of your conviction.

17 That is the advantage of a probation before  
18 judgment. But ultimately you are guilty. You are admitting  
19 to or you are found guilty when you receive probation before  
20 judgment, and ultimately, administrative penalties are based  
21 on the conduct, or at least we think it should be based on the  
22 conduct.

23 If you have pled guilty or been found guilty, we  
24 think you should be able to be subject to administrative  
25 penalties.

1           MR. YOUNG: My concern here is that this opens the  
2 door for the department to be able to say, well, you got a  
3 citation, so you are going to get your license suspended.  
4 Now, the judge has not convicted you, and the purpose -- you  
5 are misleading us here, I think.

6           My research, and I did some looking into this, my  
7 research shows that probation before judgment is to prevent  
8 having a guilty verdict on your criminal record so that you  
9 can go for a job application and say I don't have -- I have  
10 never been convicted.

11          MR. HECKWOLF: Absolutely.

12          MR. YOUNG: Okay, so it is not a conviction.

13          MR. HECKWOLF: I am not disagreeing with you,  
14 Richard. I am not disagreeing with you, but the problem is  
15 that they are still admitting to the conduct. They are  
16 actually in court saying I did this.

17          MR. YOUNG: That is not true. I just got probation  
18 before judgment and I pleaded not guilty, and the judge never  
19 said I was guilty. He never said it. He said I am going to  
20 give you probation before judgment.

21          MR. HECKWOLF: I am just going to read to you what  
22 the statute says. Okay.

23                 When the Defendant pleads guilty or nolo contendere  
24 or is found guilty of a crime, a court may stay the entering  
25 of a judgment, defer further proceedings and place the

1 defendant on probation subject to reasonable --- .

2 MR. YOUNG: Subject to reasonable what?

3 MR. HECKWOLF: Subject to reasonable conditions.

4 That is the only way you can get a PBJ.

5 MR. YOUNG: Okay. All right. I will concede that  
6 point to you. Why does the department feel that they should  
7 usurp the privilege that is granted to the courts for  
8 penalizing someone and just saying, well, the judge didn't  
9 decide he wanted to give them a penalty, so we are going to do  
10 it.

11 MR. HECKWOLF: Because if you are admitting to -- if  
12 you are admitting to a violation of a Natural Resources  
13 article, then we think we should be able to suspend your  
14 license.

15 MR. YOUNG: I never admitted to it.

16 MR. HECKWOLF: I just read you what the statute  
17 said, and I will give it to you. I will give it to you,  
18 Richard.

19 MR. YOUNG: I just want to express my concern to the  
20 commission.

21 MR. HECKWOLF: And I think it is a perfectly  
22 legitimate concern.

23 MR. YOUNG: I really think that we are walking a  
24 thin line here. I think it is opening a door for the  
25 department to step even further and become overzealous in

1 | these suspensions. And I really think that is something that  
2 | should not be in there is probation before judgment.

3 |           If you have a problem with the court issuing too  
4 | many probation before judgments, take it up with the court.  
5 | If I am not found guilty, if I am not convicted, I shouldn't  
6 | be penalized by the department. That is my feeling.

7 |           MR. HECKWOLF: You are perfectly entitled to --

8 |           MR. YOUNG: I also have some other things because  
9 | this really shocked me when we were in our Penalty Workgroup  
10 | where I think a lot of this came from.

11 |           Some of this stuff, for instance, probation before  
12 | judgment was talked about, and I thought that we were assured  
13 | that would be in there.

14 |           Another thing, on the first page -- I printed out  
15 | what Sarah sent us.

16 |           MR. HECKWOLF: Okay.

17 |           MR. YOUNG: On the first page, line 22 -- and I  
18 | don't know if what you have is going to say that -- it says  
19 | Section 3: The following are grounds for suspension or  
20 | revocation of a tidal fish license. A violation of any state  
21 | or federal commercial fishing law that results in a  
22 | conviction, disposition, penalty, probation before judgment or  
23 | an accepted plea of nolo contendere.

24 |           Okay. Where does it mention that this is contingent  
25 | upon the point system? What this is saying basically -- and

1 don't go back in further into here, because when it comes up  
2 in front of the department, the department is going to say,  
3 well, you violated this.

4 MR. HECKWOLF: Well, you have to read the whole  
5 statute together. And this next section says the department  
6 in consultation with the Tidal Fishery Advisory Commission and  
7 the Sports Fishery Advisory Commission, shall adopt  
8 regulations relating to the suspension, regulation and  
9 revocation of licenses, and then it has that same language in  
10 there.

11 So we would have to come back to the Tidal Fisheries  
12 and the Sports Fisheries advisory group and go through the  
13 same process that we just went through in order to do -- in  
14 order to have federal fisheries violations be in the points  
15 table.

16 MR. YOUNG: I am not concerned about that. My  
17 concern is that it says that you can suspend it for  
18 any -- what this should say, because you can't suspend a  
19 license for any violation can you?

20 MR. HECKWOLF: No, you can't, not based on our  
21 current regulations.

22 MR. YOUNG: But that is what this says.

23 MR. HECKWOLF: You could read that statute without  
24 reading our current regulations and say the exact same thing.  
25 I mean, that is not how the department implements this

1 provision of law. We have regulations that implement the  
2 statute, and before the department pursued administrative  
3 discipline, we would have to enact another statute, I mean we  
4 would have to enact more regulations incorporating these  
5 violations into the points system.

6 I mean, that is what this last section directs the  
7 department to do.

8 MR. GROSS: Sounds like to me you have to clean the  
9 language up, because what Richard is saying here is that it  
10 says in it, "any convictional violation" you can be suspended,  
11 so we need to have that language cleared up because if someone  
12 interprets that to the letter, we've got problems, and you  
13 said that Tom asked you to come here to clear, do some  
14 clarification. That is what Richard is asking for,  
15 clarification on this.

16 We need that clarified and clear to the letter  
17 because a suspension of a license is adding injury to insult.

18 MR HECKWOLF: I completely agree with you. Now  
19 before this provision was in here, it said any conviction of  
20 this type. Now, the department does not currently suspend  
21 people for any conviction of the fisheries title. We have  
22 regulations that specifically state what violations you will  
23 be suspended for, and that is the same thing that we would do  
24 here.

25 We wouldn't just all of a sudden use this to open up

1 Pandora's box and say we can just suspend you based on  
2 anything. That is not what this last section directs the  
3 department to do. I understand there might be some concern  
4 with the wording "any," but if you read the statute in its  
5 totality, if you read the whole thing, that is not what the  
6 department can do.

7 MR. BROOKS: Brian?

8 MR. KEEHN: I would just say, Richard, I kind of  
9 disagree with you on this. I mean I got family members with  
10 PBJs, had a little drinking and driving, whatever, but you  
11 know, guilty is guilty. That is just a loophole everybody  
12 will exploit.

13 In other words, if I get caught with 1,000 pounds of  
14 illegal rockfish, I go to court and claim PBJ, that means I  
15 skate. I can go right back to fishing? Isn't that the  
16 opposite of the spirit? That is the reason we spent so much  
17 time doing these laws.

18 MR. YOUNG: Yes, but the thing is the court needs to  
19 be able to say, well, okay, there are certain situations here.  
20 Yes, you were guilty, but there are certain situations. It  
21 comes down to the court.

22 MR. KEEHN: I will say --

23 MR. YOUNG: What is the purpose of having a court if  
24 we are going to --

25 MR. KEEHN: I will say this. My brother went for



1 security clearance. He had a PBJ back when he was 19 years  
2 old. You may say expunged. Expunged means one thing, but it  
3 is there.

4 MR. HECKWOLF: Well, you have to -- in Maryland you  
5 have to --

6 MR. KEEHN: You have to apply for it and the  
7 Governor -- exactly. But it is there.

8 MR. HECKWOLF: It is there --

9 MR. KEEHN: It is there, it is treated as a guilty.  
10 I mean, all the judge is saying is rather than go through this  
11 rigamarole, I am going to put you on whatever probation it is.  
12 You are guilty, I am going to give you probation, and if you  
13 are good boy and do what I tell you, we will act like this  
14 never happened. It is like, you know, this is your one  
15 chance.

16 MR. GROSS: This is a bad deal, Brian, because Mid-  
17 Atlantic Fisheries is getting ready to come down on us on  
18 herring --

19 MR. KEEHN: I know.

20 MR. GROSS: -- and when a pound netter is bailing  
21 his net, and he has got alewives and herring in there,  
22 nobody ---. Nobody is watching the ---. There is no  
23 tolerance on fish. You got one herring in there, you go to  
24 court, you are PBJ, and they are going to suspend your  
25 license. You lose a day's work for one fish.

1           MR. KEEHN: Well, actually, I don't think you can  
2 because, I mean --

3           MR. GROSS: That is what this says.

4           MR. KEEHN: Well, it says according to the points  
5 system --

6           MR. YOUNG: That is the thing. It doesn't say that.

7           MR. GROSS: It doesn't say that.

8           MR. YOUNG: It says that they could suspend for a  
9 violation of --- state or federal fisheries law that results  
10 in an individual receiving a disposition of probation before  
11 judgment or accepted plea or nolo contendere. And that is it.  
12 It doesn't say contingent upon the points system.

13           MR. HECKWOLF: You have got to understand that  
14 before -- look at the bracketed language.

15           MR. KEEHN: Yes, I was confused with --

16           MR. HECKWOLF: Before that, it said any conviction  
17 of a person for violation of this title. We do not suspend  
18 people for any conviction for violation of the title. We will  
19 not suspend people for any violation of any state or federal  
20 commercial fisheries law if it is not in the points table.  
21 That is just not how the department does it.

22           MR. YOUNG: And added to this bill. It says  
23 contingent upon the point system.

24           MR. HECKWOLF: Richard, Richard, that is what this  
25 last section directs the department to do. They have to, in

1 consultation with the Tidal Fish and Sports Fish Advisory  
2 Commissions, adopt regulations that will implement that  
3 provision that you are talking about.

4 MR. YOUNG: It says adopt regulations relating to  
5 the suspension and revocation of licenses. But the first  
6 section says that you can suspend a license for any violation  
7 that results in the conviction --

8 MR. HECKWOLF: We can go around and around --

9 MR. YOUNG: I know. Make it plain.

10 MR. HECKWOLF: You want to call me tomorrow and we  
11 can talk about --

12 MR. YOUNG: Sure.

13 MR. BROOKS: We have got some more -- Larry, thanks  
14 for the -- Russell, I know you --

15 MR. SIMMS: My only concern where that is, you know  
16 we have asked for law enforcement, we have asked for more  
17 money for law enforcement, we have tried to help the police  
18 enforce laws.

19 In doing this, we got this big surge of law  
20 enforcement, of new laws, new regulations, stricter penalties,  
21 and now we are going to bypass the judge and jury system by  
22 suspending somebody's license before they ever go to court.

23 You know, I started the Maryland Watermen's  
24 Association based on this kind of thing, that the marine  
25 police were judge and jury. There was regulation that said

1 | when you got caught for unculled oysters that was over 5  
2 | percent, you had to shove your whole catch overboard without  
3 | going to court.

4 |           One of the first things I got done when I started  
5 | the Maryland Watermen's Association was change that because it  
6 | was making the officer the judge and jury. I don't want us to  
7 | fall back in that. In our zest to try to clean up a problem  
8 | that has been let go for too long, we are getting overzealous  
9 | here, and I am afraid a lot of innocent people are going to  
10 | fall in this trap and lose their license or have a penalty.

11 |           We really deeply made that point system very, very  
12 | harsh, and for the people that are really breaking the law and  
13 | doing stuff -- we just talked about they caught those ones  
14 | dredging. Whatever we do to them, that is fine.

15 |           What I am worried about is we are going to get  
16 | carried away, and the legislature and the regulations in the  
17 | department, we are getting carried away with too harsh a  
18 | penalties, too strict rules, and then bypassing the judge and  
19 | jury system.

20 |           So I am not saying we are doing that yet. I am not  
21 | saying what you did by taking and suspending those people's  
22 | license because they had multiple times, multiple chances and  
23 | -- you should have done that. But we want to be very careful  
24 | that we don't overstep our bounds and try to outthink the  
25 | judges. If the judges don't make a penalty we are going to

1 make a stiffer one.

2 I am just a little concerned with what I am seeing  
3 happening because there is a groundswell of passing all these  
4 regulations with stricter and stricter penalties. That is  
5 fine. I don't have a problem with that on those bad offenses.  
6 But I don't want it to trickle down to where somebody made a  
7 mistake or an error in judgment and then he winds up losing  
8 his license. That is his livelihood, and you don't take  
9 somebody's license for speeding 10 miles over the speed limit.

10 What I am afraid we are going to wind up doing is we  
11 are going to be taking people's right to make a living when  
12 they made an error in judgment. I am just cautioning you. I  
13 am not saying that is what is happening now. But I see this  
14 steamroll effect, and it is getting bigger.

15 The legislature is coming out with all kinds of new  
16 penalties. They said the point system doesn't go far enough.  
17 We just need to be careful and be a little more cautious. We  
18 are going to have better enforcement now. We are going to  
19 have electronic stuff to enforce things, and that is all good.

20 But a lot of people you ain't caught, unbeknownst of  
21 breaking the law, will wind up losing their license, and that  
22 is what I don't want to see happen. I want us to be very  
23 cautious of what we are doing here, especially the Attorney  
24 General's Office. I want you to be conscious of that when you  
25 are making these laws and --- these laws.

1           MR. HECKWOLF: One of the reasons Harley and Tom  
2 asked me to come was also to address the summary suspension  
3 issues, and I want to be clear too that the department does  
4 not have the legal authority to summarily suspend someone's  
5 license who has made a mistake, who is just out there doing  
6 their job.

7           We really only have the authority to summarily  
8 suspend very serious poachers under the state government  
9 article. The department has to make a finding that the  
10 public welfare imperatively requires emergency action, and  
11 we can't make that kind of finding with a  
12 run-of-the-mill --- violation.

13           All of the guys who have gotten in trouble now are  
14 pretty egregious violators.

15           MR. SIMMS: And I agree with that.

16           MR. HECKWOLF: Okay.

17           MR. SIMMS: I am not faulting that. I mean, we had  
18 to do something with them because they were running crazy. I  
19 just wanted to -- things have a way in the government of  
20 creeping up on you and taking more and more people in, taking  
21 more restrictions. I just want to caution you not to let that  
22 happen.

23           MR. BROOKS: Well said, Larry. Russell.

24           MR. YOUNG: You were here when we were  
25 doing -- Larry, I think, was absent -- from one of the penalty

1 groups around here -- I think that is one of the things we had  
2 really expressed by working on this point system, the way we  
3 went over it that night. That certain things, you know, you  
4 just get a warning for it. We really worked hard with this  
5 group to get what we got.

6 Like I said, I haven't been up to date with House  
7 Bill 98 but, you know, everything that we have done, if that  
8 is going to take it away, I don't know what is the sense of  
9 having a group because we worked hard, Larry and all of the  
10 group that was here from the sports fishermen and the  
11 commercial guys.

12 We worked hard on this, sat down -- we spent many a  
13 night up here with you trying to get this done right. Yes,  
14 for serious violators, I have no problem with it. You know.

15 MR. BROOKS: Brian?

16 MR. KEEHN: One last question just kind of occurred  
17 to me. I know we probably covered it in our umpteen meetings  
18 on this. But the process, let's say there is a conviction.  
19 What is the process? It is not really clear to me who makes  
20 the decision -- I mean ultimately it is the department. But  
21 how does the department, what is the process in which the  
22 department suspends somebody?

23 MR. HECKWOLF: I am really glad you asked that  
24 because I think that will clarify some things. So if you get  
25 a conviction or if under this new bill you plead probation

1 before judgment or plead nolo contendere, then the department  
2 has to go and have another hearing.

3 So previously, previously when you just had a  
4 conviction, there is really not much of an issue at the  
5 hearing because you have pled guilty and been found guilty by  
6 a judge, so the administrative law judge, who is deciding  
7 whether or not to suspend you, simply sees that conviction and  
8 it is pretty much an open-and-shut case.

9 Now, if we have issues where someone gets a  
10 probation before judgment or pleads nolo contendere, there are  
11 going to be more factual issues in that case. An  
12 administrative law judge can't as easily decide that this  
13 person actually did what they are charged with doing if they  
14 got a PBJ or if they got a nolo contendere.

15 So there would be another disputed hearing to  
16 suspend someone before the license got suspended. So really  
17 we are looking at the court case and then we are going to have  
18 another hearing to determine the suspension.

19 MR. YOUNG: What is that hearing? Is than an  
20 administrative law --

21 MR. HECKWOLF: That is an administrative hearing,  
22 and it will be before the Office of Administrative Hearings.  
23 They have administrative law judges, and that is how it would  
24 be conducted.

25 MR. YOUNG: And they basically look at whether or



1 not the law was followed in the court. It is like an appeals  
2 hearing.

3 MR. HECKWOLF: In the past they looked to see  
4 whether or not the person was convicted. If this law passes,  
5 and someone can be suspended based on a probation before  
6 judgment, the judge would have to really look that much harder  
7 to determine whether or not the person actually did what they  
8 are being accused of doing, because, as we said, a PBJ, while  
9 you are pleading guilty, while you may have been found guilty,  
10 is not the exact same thing as a conviction.

11 We think for enforcement purposes, we should have  
12 the authority to go forward when someone gets a PBJ, but  
13 again, an administrative law judge might agree with you in  
14 that case and say, hey, this was just a PBJ. The facts really  
15 aren't clear in this case. I am not going to suspend this  
16 guy.

17 MR. YOUNG: So it is the administrative law judge  
18 that is going to say that --

19 MR. HECKWOLF: That is the person who makes the  
20 determination --

21 MR. YOUNG: He is going to make the decision about  
22 whether he gets suspended or not.

23 MR. HECKWOLF: The administrative law judge. Right  
24 now, the Office of Administrative Hearings issues proposed  
25 decisions, and then the Secretary ultimately decides.

1 Right now we are working with the Office of  
2 Administrative Hearings to explore whether or not we would  
3 delegate that final decision-making authority. So we have a  
4 more neutral arbiter deciding the case.

5 MR. KEEHN: I was going to say I disagree with that.  
6 Part of the problem we have had with convictions, is that, you  
7 know, the judges don't really know the severity of the crime  
8 because they are not familiar. So if you put everything to  
9 the Office of Administrative judge, basically he is going to  
10 look at -- so he would look at the list that we all did and be  
11 like, you know, this is a 90-day suspension. Right?

12 MR. HECKWOLF: Well, that would be one of -- yes, we  
13 would present the case before --

14 MR. KEEHN: Hypothetically, let's say he had  
15 50-, 40-inch rockfish in possession.

16 MR. HECKWOLF: Sure.

17 MR. KEEHN: So he is going to go down the list we  
18 did, and see that we said it was -- well, I don't remember  
19 what it was, Larry, 90 days, 180 days, something like that.

20 And he is going to go, okay, 180 days you are  
21 suspended for 180 days. Right now how it works is he sends  
22 something to the Secretary that says we recommend suspension  
23 for 180 days, the Secretary does it.

24 MR. HECKWOLF: Right.

25 MR. KEEHN: Based on, you know, the Secretary views

1 it and then does it.

2 MR. HECKWOLF: Right.

3 MR. KEEHN: But what you are proposing is just leave  
4 it at the Office of Administrative --

5 MR. HECKWOLF: What we are exploring right now with  
6 the Office of Administrative Hearings is working with their  
7 judges to educate them more on natural resources law and  
8 fisheries law. So if we can eliminate that process it makes  
9 the whole thing much more efficient.

10 MR. KEEHN: But it also, but it also -- I disagree  
11 with that part. I agree with everything but that part of it  
12 because it also removes familiarity with all the -- like J.R.  
13 said, one herring, you know, DNR knows one herring is a  
14 mistake. Office of Administrative judge, he doesn't know  
15 nothing. So, you know, depending on how the press portrays  
16 you is how -- you know what I am saying.

17 MR. HECKWOLF: I hear you.

18 MR. KEEHN: I think the department needs to be  
19 involved, especially, especially when suspending somebody's  
20 livelihood. There needs to be a whole lot of, not we need to  
21 work on making them more familiar. They have to be familiar.  
22 If you are going to hurt somebody's livelihood, they need to  
23 be intimately familiar with natural resources.

24 MR. BROOKS: Larry.

25 MR. SIMMS: You know, I have sat in some hearings

1 with people that were up for losing their license before the  
2 administrative judge. I want to tell you something. That is  
3 just a formality. Rubber stamp. You don't have a chance to  
4 plead your case or nothing else. They look at whether it was  
5 done illegally, whether the arrest was done illegally or not,  
6 and that is it.

7           What I really think we need, if we are going this  
8 route of really trying to suspend people's licenses and  
9 everything, I think it should be judged by the peers and I  
10 think it should come back before this board and lay it out,  
11 everything that the administrative judge gives and everything  
12 else and let either a committee from here or something have  
13 some input on that.

14           Because what is going to happen, I can see this  
15 trail coming down the road, we are going to systematically get  
16 rid of all the watermen because as you change administrations  
17 and -- right now we ain't got much that feels much for the  
18 watermen right now.

19           If it gets any worse than that, they will put us out  
20 of business just by arresting us on simple things, making the  
21 laws tougher and then losing your license. Eventually we are  
22 all going to be gone.

23           I see that coming. I predict in 10 years' time, if  
24 we don't slow down this process down a little bit somehow,  
25 that we will all be gone. Don't misinterpret what I am

1 saying. I want that law violator, the one that is doing the  
2 bad stuff. I want to get rid of him. But I know how this  
3 stuff creeps up and takes in more and more, and first thing  
4 you know, they will say, oh, well this violation --

5 I will give you a good example. You got a law on  
6 the books that says you have got to have your permit card on  
7 the boat. You have got to take this permit card -- it is that  
8 big, it ain't something you can fold up and put in your  
9 wallet. You have got to take this permit card off your boat,  
10 put it in your truck, go to the check-in station with it,  
11 check-in station writes on it, fills it out.

12 You got to remember to pick it up, put it in your  
13 truck, take it to the boat, take it out of your truck and put  
14 it in your boat. How easy is it to forget and leave that  
15 laying there? Do you know that fine is now \$600 for leaving  
16 your permit card by accident on the boat, I mean in the truck?

17 Sometimes it is only a matter of 1,000 yards to the  
18 dock to go get it, and they won't let you go get it. That is  
19 a \$600 fine. That is the kind of ridiculous stuff that we are  
20 seeing happening, that is creeping up on us that we can't live  
21 with.

22 I understand we need the permit card on the boat,  
23 but a \$600 fine for a mistake of forgetfulness -- you got to  
24 do it every day. Take that thing from the boat to the truck  
25 to the check-in station, from the check-in station to the

1 truck back to the boat. Every day. Now how easy is that to  
2 forget?

3 That is the kind of stuff that I see happening here  
4 that is way out of whack, and it is going to creep up on us  
5 that you lose your license on that kind of stuff.

6 The other thing that is really a problem is this  
7 ridiculous law we passed, that was passed last year, about you  
8 have to put the tags in your fish when you catch them.  
9 Commercial hook and line.

10 You have to stay to the pound net and tag all your  
11 fish when you could be tagging and running from one net to the  
12 other. People pay \$600 fines because they got four or five  
13 fish laying on the floor without the tags on. They haven't  
14 left the area. But that is ridiculous.

15 But that is the kinds of laws and regulations that  
16 we are passing every day that is going to wind up putting us  
17 out of business. And then -- this bill right here, 342, it  
18 takes, it allows the department to take your license away from  
19 you when you issue the citation. Doesn't even say nothing  
20 about being found guilty.

21 MR. HECKWOLF: Is that the oyster bill?

22 MR. SIMMS: That is the 342.

23 MR. BROOKS: Anybody want to propose a motion? We  
24 are just about out of time on this topic but we don't want to  
25 leave it if there are more things that we want to do here.

1           MR. KEEHN: One thing I want to add, Larry, is I  
2 think we changed the rules on the tagging. In the  
3 new -- remember we had that long discussion -- weren't they  
4 changed for tagging rockfish, hook and line, when you leave?

5           MR. SIMMS: They ain't changed that yet.

6           MR. YOUNG: They ain't changed nothing.

7           MR. KEEHN: No, but I mean when we were  
8 working on --

9           MR. YOUNG: They went back and put it back the way  
10 it was.

11          MR. KEEHN: Oh, they did?

12          MR. YOUNG: Oh, yeah.

13          MR. KEEHN: Oh, my bad.

14          MR. YOUNG: So it is still the same the way it was.  
15 After all the discussion we made --

16          MR. SIMMS: I get calls from all over, people getting  
17 \$600 fines, \$500 fines, \$700 fines for having fish laying on  
18 the deck. And when you catch a fish hook and line, you ain't  
19 got time to tag it when you take it off the hook.

20          MR. GROSS: How about when you got 25-mile --- and  
21 you got to push away from that --- ?

22          MR. YOUNG: That is what we fought for, but my  
23 understanding is, it is right back the way it was, the way we  
24 discussed it. You have got to have a tag before you --

25          MR. KEEHN: I didn't know.

1           MR. HECKWOLF: I think for purposes of suspension, I  
2 don't think -- did we, I don't think we changed the  
3 regulation which would change the fine, but for purposes of  
4 suspension --

5           MR. KEEHN: That is what I am talking about.

6           MR. SIMMS: You get points on that.

7           MR. KEEHN: No, I think we changed it for the points  
8 part of it.

9           MR. HECKWOLF: I think we talked about that for a  
10 long time.

11          MR. SIMMS: So you don't get no points for not  
12 having a fish tag?

13          MR. KEEHN: It is a lesser, like a five point.

14          MR. SIMMS: Yes, five points. You get two of those  
15 five points, you lose your license.

16          MR. HECKWOLF: Can I look at that again and I will  
17 get back to you guys.

18          MR. BROOKS: Any proposal of a motion on this  
19 subject before we leave it?

20          MR. YOUNG: I don't know what kind of motion. I  
21 would like to do something. I would like to see the wording  
22 of that House Bill 98 changed in several locations.

23          MR. SPEIR: When it says any, that is your  
24 concern --

25          MR. YOUNG: That is one of my concerns.



1                   MR. SPEIR:  -- that it would be any minor  
2  infraction.

3                   MR. YOUNG:  Yes.

4                   MR. SPEIR:  So the preferred wording would be  
5  certain?  Something that references the schedule of points  
6  violation in regulation.

7                   MR. YOUNG:  Yes.  I would like to see it say a  
8  violation, "a violation of certain state and federal  
9  commercial fisheries laws that results in a conviction."  I  
10 would like to see disposition of probation before judgment out  
11 of there, but you are probably not going to do that.

12                   And then "on accepted plea of nolo contendere based  
13 on adherence to the point system that has been established."  
14 So that specific section of this law says that you are going  
15 to have to adhere to that points statement, that point system.

16                   MR. BROOKS:  Okay, one more comment before we move  
17 to the next topic.

18                   MR. SIMMS:  I just want to spell something else out  
19 here.  What we are losing in some of these new laws that are  
20 going through before the legislature, we are losing that  
21 buffer zone.  Like this 342, it doesn't say anything about 100  
22 foot inside the line, or 10 foot inside the line.  It says  
23 inside the line.

24                   So what we had in the point system is not in that.  
25 And let me tell you something.  You got lines out in the bay

1 all over the place. Imaginary lines. When you are working it  
2 is very easy to get over that line, stray over that line  
3 somewhere. In our point system, we had 150 foot over the  
4 line. In some of these laws, it ain't got none of that in  
5 there.

6 So what is going to happen, somebody strays over the  
7 line, 10 feet or 20 feet, it says you go for an administrative  
8 hearing. Don't even go to court. We are eliminating the  
9 court system out. We are making DNR judge and jury. To me,  
10 that is not the American way.

11 So I don't know what kind of motion to make for all  
12 this, but I just think we are going overboard for some of this  
13 stuff. And again, I want to catch those federal law  
14 violators. I want to get rid of them. But I don't want to  
15 get rid of everybody else along with it.

16 MR. BROOKS: All right. Hearing no proposal of a  
17 motion, we will move on to the next topic. Richard, unless  
18 you wanted to put your verbiage in a motion.

19 MR. YOUNG: I wouldn't know how to begin.

20 MR. BROOKS: Okay. I think the message, hopefully  
21 the message has been received by the department of our  
22 concerns, and it is a real potential for disaster for the  
23 commercial fishing fleet.

24 Okay, Bob Sadzinski, River Herring Management.  
25

**River Herring Management**

***By Bob Sadzinski***

MR. SADZINSKI: I am Bob Sadzinski. I work with the fisheries service. I would like to introduce Tony Jarzynski. Together we tackle the herring. We can do the math and we are still shorthanded.

As I go through, if you guys have questions, just jump right in, don't be shy. And I have -- Marty said I have three hours to talk so I am going to use the full three hours.

MR. BROOKS: No, you're not.

(Slide)

MR. SADZINSKI: Tonight, just to give you an overview -- defining the problem, once my computer wants to act correctly. Characterize the river herring fisheries.

(Slide)

I have lots of data and lots of hidden slides in there, so I am not going to show you everything. What the present management options are.

(Slide)

As far as statement of the problem, with the passing of ASMFC's amendment two, which passed last fall, we call it the River Herring Amendment. Maryland must either close its river herring fisheries by January 2012 or write a sustainability plan, which I will define here shortly.

(Slide)

1           A sustainable fishery is a fishery that could  
2 support a commercial and/or recreational fishery by not  
3 diminishing potential --- stock, reproduction and recruitment.  
4 I did not do that definition. That is from ASMFC, and it has  
5 been tailor made.

6           (Slide)

7           As far as responsibility for river herring  
8 management, river herring are an integral part of the  
9 Chesapeake Bay ecosystem. Presently abundance in Maryland is  
10 at an all-time record low. You will see some graphs here  
11 shortly showing that because river herring are an anadromous  
12 species, which we will go over shortly.

13           The DNR and ASMFC are charged with river herring  
14 management, and our charge is to conserve, protect and enhance  
15 our state's fisheries resources.

16           (Slide)

17           Just a few points concerning river herring. There  
18 are two species that we have here. We have a nice overlap of  
19 alewife and blueback herring. Alewife is first, followed by  
20 the bluebacks. They are anadromous, which means they spend  
21 most of their life in the ocean. They come to the freshwater  
22 to spawn.

23           Generally you see them between 2 and 5 years old.  
24 But they may spawn up to five times.

25           (Slide)

1                   Here are two species side by side. It is pretty  
2 rare to see them side by side.

3                   (Slide)

4                   As far as commercial river herring, generally it is  
5 used for different purposes. The main purpose that we see is  
6 for the roe, which is run about \$28. They actually break them  
7 open. They get them per gallon. Roughly they get about \$9 a  
8 bushel, which is about 45 pounds, the average bushel weighs.

9                   Do the math, equates to about 20 cents a pound.  
10 Generally you get about 10 cents each for river herring by  
11 pound only, not for the roe.

12                   Live line, I have no idea. I took a guess. I have  
13 heard between up to \$8 each for live lining. \$2? Okay. Dead  
14 bodies are used for different things: bait and crab and eel  
15 pots and mega 3 oils, especially with the decline of menhaden.

16                   (Slide)

17                   That is shad roe by the way. I couldn't find  
18 herring roe, sorry.

19                   MR. SIMMS: They still make my mouth water, I can  
20 tell you that.

21                   MR. SADZINSKI: They still pop the same.

22                   (Slide)

23                   Recreational river herring, they are caught by hook  
24 and line, bycatch when targeting generally white perch and  
25 shad. There are not to many of us who really target river

1 herring.

2           They do target them using dip nets and cast nets  
3 occasionally. Once you catch them, you may pickle them, smoke  
4 them, fry them. I generally use them for bait for catfish.  
5 They are also used for live line, of course, and dead you can  
6 just chunk for striped bass.

7           (Slide)

8           Recreational hearing regs, hook and line is allowed  
9 in tidal and nontidal. Generally no restrictions as far as  
10 bait. Dip nets are allowed in nontidal rivers only. Certain  
11 other specific regs that I won't list.

12           (Slide)

13           Commercial herring regs, basically the season is  
14 generally open the whole time that they are here. There are  
15 no gear restrictions.

16           (Slide)

17           This basically says the whole story right here as  
18 far as commercial river herring landings in Maryland. You  
19 will see it is a long time series starting in the 1930s  
20 running up to the present. You will see millions of pounds  
21 landed one time. Now they average about 30,000 pounds a year  
22 roughly in Maryland.

23           A lot of the data we collect is over the last 15  
24 years, when the stocks have already gone way down.

25           (Slide)

1           This kind of shows the same picture but a different  
2 sense. We went into the database and actually pulled out the  
3 number of river systems that had reported herring landings  
4 over time. So we went back, go back as far as 1980.

5           So we had about 40, 41, in 1980 and you can see how  
6 it decline. So there are basically fewer systems reporting  
7 river herring catch from.

8           (Slide)

9           By gear type, we have specific landings for the last  
10 four years by gear. So this kind of breaks it down by  
11 different gear types. And I have lots of other graphs, which  
12 I didn't want to confuse the issue too much.

13           But this here again is the average daily pounds  
14 landed by gear type. So it shows you -- if you just look at  
15 one particular gear, which is the haul seine. In particular,  
16 they land 888 pounds each time they go out, on average,  
17 compared to say a gill net, which is 193; fyke net, which is  
18 72; and then the pound net, which is 51 pounds.

19           (Slide)

20           Ocean landings, you can see a whole different scale  
21 right here when it comes to ocean landings of river herring.  
22 You are seeing 50 million pounds land in the 1950s, coming all  
23 the way down to, is that probably 2 to 3 million pounds.

24           MR. YOUNG: What caused that big drop?

25           MR. SADZINSKI: You will see in a minute. Couple

1 different things.

2 (Slide)

3 Foreign fleet, we believe, really kind of triggered  
4 this downfall. They were actually shipped out in 1980s. But  
5 you can see, they just hammered the river herring stocks out  
6 there. Basically a lot of Russian trollers. That is what it  
7 really was out there in the 70s. And they said they were  
8 excluding 1980s. That is when they created the EEZ.

9 (Slide)

10 So here again is the foreign fleet for that time  
11 series. 1960s we saw --- all the way up to 1980 when they are  
12 excluded. Compared to in-state landings, you will see they  
13 kind of track about the same.

14 Ocean landings are barely on the scale. They are  
15 the little blips in between. You can barely even see the data  
16 there. It is just pretty much insignificant compared to the  
17 foreign fleet.

18 (Slide)

19 So kind of putting it together, there are also some  
20 by-catch estimates, which are -- you can't even see them, they  
21 are so minimal at the very end right here. So what we have is  
22 in-state landings, we have directed ocean catch, we have  
23 foreign fleet, and then there is in-state landings.

24 So we are trying to, not to confuse the issue, but  
25 there is -- foreign fleet is basically excluded from the whole



1 picture right now.

2           So you can see right here you have the foreign fleet  
3 compared to the in-state landings. The by-catch is at the  
4 very end, and I will show you a graph here emphasizing the  
5 very end of that graph.

6           MR. SIMMS: What about Eric and Agnes?

7           MR. SADZINSKI: Oh, yeah. '72 and --

8           MR. SIMMS: Right there, right where it starts  
9 dropping bad.

10           (Slide)

11           MR. SADZINSKI: So this is the by-catch that we have  
12 certain years for. This is ocean by-catch versus in-state  
13 landings.

14           MR. DUKES: I can tell you, your in-state, what you  
15 are saying, your rivers, when the rockfish get so bad you  
16 can't herring fish no way. I mean, you are done. That is  
17 point blank.

18           MR. SADZINSKI: Yep, we see the same thing.

19           MR. DUKES: And the way it looks right now, you  
20 ain't going to do much herring fishing early this year because  
21 the rock are coming up early in the rivers, so, you know, you  
22 are going to --- down even more for 2010 because you can't  
23 fish for them for the rock.

24           (Slide)

25           MR. SADZINSKI: Lots of causes for river herring

1 decline, as I kind of prioritized. This is my list. So  
2 directed harvest, whether it is ocean or state. By-catch in  
3 the ocean. We do have some evidence of predation occurring  
4 even in the ocean now, in dolphins in particular.

5           You see water fowl, like where this picture was  
6 taken. This kind of --- , Susquehanna River. You see  
7 cormorants up there hammering pretty hard. Water quality, dam  
8 construction, habitat and disease.

9           (Slide)

10           But one of the problems that it is not, is juvenile  
11 production. We have seen actually some really good juvenile  
12 year classes. I didn't put that graph up there. The last 10  
13 years have actually been above average.

14           (Slide)

15           But as far as where we are going, DNR decided upon  
16 an option here. Start a sustainable fisheries plan that would  
17 be required to be written by 1 July. That is our deadline is  
18 to have this done by 1 July, the plan that we need to write.  
19 That is if required. So if we do nothing right now, the  
20 fishery is closed as of January 2012.

21           The plan will be submitted to ASMFC. It goes to the  
22 tech committee first for approval -- for review, I should say.  
23 And then it is actually approved by the board.

24           New regulations will take place approximately  
25 January '12 also if approved by ASMFC. What those -- right

1 now we are starting to get some of these plans in. Some of  
2 these states have already written their plans.

3 (Slide)

4 Basically Maine is basically doing what they have  
5 always done. They have a pretty high degree of management  
6 that they do in there. They actually manage by individual  
7 river. In most cases, individual towns actually manage river  
8 herring in Maine.

9 New Hampshire is closed. D.C. is closed. North  
10 Carolina and South Carolina. Although North Carolina does  
11 have a \$7 or \$8,000 pound that they call research set aside.

12 Some of the other states -- Rhode Island,  
13 Connecticut -- are likely to be closed. The Potomac River has  
14 not been decided, but in talking to ---, they will probably go  
15 with some sort of limited by-catch, possibly one bushel per  
16 person per day.

17 Delaware is doing a phase-out plan. Virginia and  
18 New Jersey are just sitting back and waiting to see what  
19 everyone else does.

20 The Delaware River, which is kind of jointly managed  
21 by those four states, is submitting a plan, and it is kind of  
22 evolving at this point. They are talking about some sort of  
23 limited fishery, a by-catch fishery. I am not really sure at  
24 this point what is going to come out of that plan. But that  
25 is what the other states are proposing to do.

1 (Slide)

2 But here are the options for commercial, which is  
3 the full moratorium, like I said, which is basically the  
4 closure of the river herring fishery. And the other two are  
5 limited directed harvest, which includes monitoring and  
6 permitting, or daily catch limits and equal catch of other  
7 species.

8 It should be noted that ASMFC must approve this  
9 plan, so it is not a slam dunk.

10 MR. : (off mic) They are not going to make  
11 you tag herring are they?

12 MR. SADZINSKI: Do we want to go there?

13 MR. BROOKS: Stay on target here.

14 MR. SADZINSKI: So this is the commercial option.  
15 The recreational options are similar. Full moratorium or some  
16 sort of limited harvest. Includes daily creel or gear  
17 restrictions. And I think that is it.

18 So these are the things we are looking for feedback  
19 on tonight.

20 MR. YOUNG: You said the last 10 years there has  
21 been good juvenile recruitment.

22 MR. SADZINSKI: Exceptional.

23 MR. YOUNG: Well, what is the problem? Why isn't  
24 the stock coming back?

25 MR. SADZINSKI: There is an disconnect between

1 juvenile production and when they return as adults.

2 MR. YOUNG: Okay, and there is no foreign fleet.

3 MR. BENJAMIN: No, it is an off-shore troll fishery  
4 going after sea run herring. They are wiping them up more.  
5 But they don't have any observers on the boat and they can't  
6 prove it. But that is what they think is happening to them.

7 MR. DUKES: One of the television shows the other  
8 night showed them herring fishing out in the ocean.

9 MR. SADZINSKI: Yes, Atlantic herring.

10 MR. BENJAMIN: But they get them mixed up with the  
11 white shad and -- or river herring get mixed in. That is why  
12 we have -- you know, in the springtime we have a lot of  
13 hickory shad. People that don't know much about this, and if  
14 I am wrong about it let me know.

15 We have the hickory shad, the white shad and the  
16 blueblack and alewife herring that run up in the rivers in the  
17 springtime. The blueback, the alewife herring and the white  
18 shad all go up to the north Atlantic, up off of Maine and Nova  
19 Scotia, and they mix in with the sea run herring that are  
20 directly targeted. And they catch a big bunch of them at  
21 by-catch.

22 Reason we don't have any hickory shad problem is  
23 because hickory shad stay along the coast. They don't mix in  
24 with the sea run herring so they are not caught as a by-catch.

25 That is why we think, that is why I think, our

1 herring numbers are dropping and white shad numbers won't come  
2 back. Not until we start addressing that off-shore sea run  
3 herring fishery.

4 MR. SADZINSKI: The other problem too is that stocks  
5 are so low now -- I mean, we used to have millions of herring  
6 in the state. Now we are down to thousands.

7 MR. BENJAMIN: We also used to have no hickory shad,  
8 but now we got millions of hickory shad. Something is  
9 happening to them things in the summertime when they are not  
10 together.

11 MR. SADZINSKI: But it is more than one cause. You  
12 can't say it is just foreign fleet. You can't say it is  
13 just --

14 MR. BROOKS: Any other comments or questions for  
15 Bob?

16 MR. GARY: I just wanted to mention, Bob, you had a  
17 couple graphs up that kind of delineate what gears are being  
18 caught. You and I were speaking just before the meeting, and  
19 frankly I didn't know some of this and I was glad to hear it.

20 Could you give the commission a little more detail  
21 on what you know in terms of the geographic areas of the state  
22 where the fish are being caught now, and a little bit better  
23 characterization of what those are.

24 MR. SADZINSKI: Yes. Without going into too much  
25 detail, the fishery has evolved a lot. It used to be a strict

1 pound net fishery. You used to be able to land millions of  
2 pounds just setting a pound net.

3 Then what happened is it switched more to a gill net  
4 fishery back in looks like about the '80s or so. They really  
5 started hammering the herring pretty hard right on the  
6 spawning grounds. Turned it into more of a roe market.

7 In recent years a lot of those guys have pulled  
8 their gear out. They can't catch herring anymore. We have  
9 talked to some of them in the rivers we are in, and they are  
10 like we are lucky to see herring anymore. They are like, I am  
11 trying to get a bushel of herring tonight, and they can't even  
12 find them anymore.

13 So really it is kind of evolving to a -- some river  
14 systems they obviously do still target river herring for  
15 certain things. But generally it has turned into more of a  
16 by-catch fishery.

17 MR. DUKES: I know in the upper Choptank where we  
18 used to herring fish, you can't do it no more for the  
19 rockfish. I mean, you are done. The herring are there but  
20 you can't catch them for rockfish. So, you know, you just  
21 quit.

22 MR. BROOKS: Anything else?

23 MR. GARY: Just one other item. Jack, I think we  
24 would be remiss if we didn't allow Mike to maybe describe what  
25 his -- you participate in the fishery in the upper bay.

1           MR. BENJAMIN: Yes, that is a big part of my  
2 business.

3           MR. GARY: And just give the commission a little  
4 more insight on your fishery.

5           MR. BENJAMIN: Well --- fishery in the upper bay. I  
6 catch all my fish with a cast net, 10-foot cast net. You  
7 know, a limited fishery, as much as I can throw it. We are  
8 going to have to take some cuts and we are going to have to  
9 come up with a plan. Just don't forget about me in the big  
10 scheme of things.

11           I am willing to take it if we have to do reductions,  
12 but I have a real clean herring fishery with no by-catch. I  
13 think we ought to keep that going.

14           MR. GOLDSBOROUGH: If I understand right, in order  
15 to take the option of having a directed fishery, you have to  
16 be able to demonstrate that it would be sustainable?

17           MR. SADZINSKI: Correct.

18           MR. GOLDSBOROUGH: Do we have the data to be able to  
19 do those analyses?

20           MR. SADZINSKI: It depends on the TC review and how  
21 strict they are. I read the other five plans. We have  
22 probably the best dataset on the East Coast. So between  
23 juvenile indices that we have and a lot of the --- , which I  
24 have not presented tonight.

25           MR. GOLDSBOROUGH: Is any of our data river



1 specific?

2 MR. SADZINSKI: Yes, it is river specific.

3 MR. GOLDSBOROUGH: Because we would, I guess,  
4 possibly we could designate certain rivers as sustainable  
5 fisheries and closing others?

6 MR. SADZINSKI: That is an option.

7 MR. BROOKS: Anybody else?

8 MR. GARY: Bob, I just want to know. We want some  
9 feedback tonight?

10 MR. SADZINSKI: Yes, we would like a recommendation  
11 from this commission.

12 MR. GARY: In tab No. 6 -- you want to take a quick  
13 look? Hopefully everybody had a chance to look at that  
14 previously. But we are looking for some advice from the  
15 commission, perhaps in the form of a motion. I don't know,  
16 Bob, do you want to walk then through it, the options --

17 MR. SADZINSKI: It is basically on the screen again.  
18 I just basically cut and paste it, as far as commercial  
19 options. What the commission would like to see.

20 MR. SIMMS: I will just ask this question before we  
21 put it in a motion or anything. What about if you had it out  
22 as a by-catch fishery, as you catch it along with other stuff  
23 you are catching them and have a limit to how much you can  
24 catch? Instead of a directed fishery, have a by-catch  
25 fishery, because we got other fisheries going on, and we are

1 going to catch a few herring in that fishery.

2 Like J.R. said, impounded fisheries, when you  
3 are --- alewives, and you got a few herring in there, you  
4 know, that would be a by-catch and not a violation. I don't  
5 know how it would affect him on the upper bay where --

6 MR. BENJAMIN: Mine is a totally directed fishery.

7 MR. SIMMS: Yours is a directed fishery.

8 MR. BENJAMIN: Absolutely. There is no by-catch.

9 MR. SIMMS: Well, you would have to go catch  
10 something else with it.

11 MR. BENJAMIN: Well, that is the problem. Mine is  
12 absolutely directed fishery. I have no by-catch or anything  
13 else.

14 MR. SIMMS: Well, have a limit on how many you can  
15 catch in either a directed fishery or a by-catch fishery?

16 MR. BENJAMIN: Have a limited directed fishery and a  
17 limited by-catch fishery.

18 MR. SIMMS: Yes.

19 MR. GARY: Bob, do you have any sense here in the  
20 handout that we provided the commissioners, a limited directed  
21 harvest, including monitoring and permitting, do you know, do  
22 you have any sense of what threshold would be required there?  
23 What would be --

24 MR. SADZINSKI: It was never stated. It is really  
25 up to us to prove it is sustainable.

1           MR. KEEHN: I gotta say, I don't feel comfortable  
2 making a recommendation right now having, you know, I don't  
3 think I have got enough data. Like how many people are in the  
4 fishery? How much money -- I don't know any of that. I can't  
5 make an arbitrary decision based on not knowing everything. I  
6 am sorry. I don't feel comfortable doing that.

7           MR. SADZINSKI: What other data would you need --

8           MR. GOLDSBOROUGH: To that point, to take either one  
9 of the second two, in other words, anything but a moratorium,  
10 you have got to pass certain standards. ASMFC has to agree  
11 that it is sustainable, right?

12          MR. SADZINSKI: There is no standard at this point.  
13 It needs to be reviewed by the PC and reviewed by the board.

14          MR. GOLDSBOROUGH: Small s. In other words, it is  
15 not spelled out but there is a hoop you have got to jump  
16 through.

17          MR. SADZINSKI: Right, that is correct.

18          MR. GOLDSBOROUGH: So like Brian says, you know, we  
19 can't recommend that you do one of those two anyway until we  
20 have information that we are satisfied --

21          MR. KEEHN: Who is it going to impact and how?

22          MR. BROOKS: Mike -- that is a good point. I mean,  
23 we have heard how it is going to impact him.

24          MR. BENJAMIN: Just to prove the sustainability  
25 aspect of the thing, you know some rivers that you have plenty

1 of herring in and some of them you don't have any.

2           The rivers, you know, that I am fishing, obviously  
3 they have some herring. Is your spawning index as good up in  
4 those rivers I am fishing? You know which rivers I am  
5 fishing.

6           MR. SADZINSKI: Yes, they are very good.

7           MR. BENJAMIN: So, that is definitely -- where I am  
8 at is sustainable. I mean we can prove it on that river,  
9 Susquehanna.

10          MR. SADZINSKI: Well, I don't know about northeast  
11 in particular, but our indexes are actually from the  
12 Susquehanna flats.

13               (Simultaneous conversation)

14          MR. BENJAMIN: But I don't want to have to go  
15 putting pound net up in the Upper Bay to have a by-catch  
16 fishery to sell herring. It don't make sense.

17          MR. SIMMS: Mike, how about you give us an idea of  
18 how may fish you catch a day.

19          MR. BENJAMIN: Well, see, it isn't a day thing. It  
20 may not do anything for two or three weeks -- the weather.  
21 Then they run, then I got a week I catch a lot. You know --

22          MR. SIMMS: What is a lot?

23          MR. BENJAMIN: 1,000, 1,400 pounds a day, some days.  
24 But you know, I go three weeks with no fish.

25          MR. SIMMS: Are you catching with a throw net.

1 MR. BENJAMIN: With a throw net, 10-foot throw net.

2 MR. SIMMS: That is a lot of fish.

3 MR. DUKES: What it is, he has got big, strong arms  
4 is all I can say.

5 MR. BENJAMIN: What it is, I know we have a good run  
6 of herring. I am throwing a 10-foot throw net in the  
7 Susquehanna River, yank it up. You know how big that river  
8 is. There have got to be a lot of herring where I am at. But  
9 it is a directed fishery. I have absolutely no by-catch.

10 MR. KEEHN: But my point is -- there you go. 1,000  
11 pounds a day but how many guys, I don't have any data to know  
12 how many guys are doing it.

13 MR. BENJAMIN: Me. I am it in the upper bay. There  
14 is nobody else throwing a net.

15 MR. KEEHN: I am sorry, I don't take your word for  
16 it. but I mean, how many guys are in the fishery? You know  
17 what I mean? We don't know enough to make a decision.

18 MR. BROOKS: Harley just suggested that maybe we  
19 could request they come back at the March meeting with some of  
20 the data that you are asking for.

21 MR. DUKES: That would be better for the  
22 commission --

23 (Simultaneous conversation)

24 MR. BROOKS: Show us by gear type, where -- that is  
25 possible then?

1           MR. SADZINSKI: I have data for the last four years.  
2 Gear specific, people specific.

3           MR. KEEHN: We need to know that so we know who we  
4 are impacting and how we are impacting.

5           MR. BROOKS: So we will sit down in March and  
6 hopefully by then we will be able to make some sort of a  
7 recommendation with that information.

8           MR. SADZINSKI: I just need to get up with Mike. If  
9 Mike is willing to share some of that data, so okay.

10          MR. GROSS: We need to have it in March because I  
11 got a guy down in the bay, --- , that I need to get here.

12          MR. GARY: You are talking about not just the  
13 directed fishery, Mike. So you are talking about the  
14 by-catch. Who is being affected by --

15               (Multiple voices): All of it.

16          MR. GARY: Everything.

17          MR. BROOKS: Pound nets, you name it.

18          MR. GROSS: Because he did make a concern to me  
19 today that at times he catches 800 pounds in his net while he  
20 is fishing for menhaden.

21          MR. GARY: So I think what I am hearing is an action  
22 item for the department to come back at the March Tidal Fish  
23 Advisory Commission meeting with a comprehensive presentation  
24 on who specifically -- the numbers, where they are fishing,  
25 how much they are catching --

1 MR. DUKES: Which rivers they are catching them in.

2 MR. GARY: Geographically, demographically,  
3 everything so you have a full understanding of who is going to  
4 be impacted by any of these measures.

5 MR. KEEHN: Anything into how big the fishery is.  
6 You know, I need to know all these things before I make a  
7 decision.

8 MR. GOLDSBOROUGH: Yes, and on the fish population  
9 side of things too. I mean, what data do we have about how  
10 healthy the runs are in the different rivers so we have an  
11 idea of what they can sustain.

12 MR. KEEHN: Yes, and what rivers. Maybe we would  
13 suggest closing a river.

14 MR. SIMMS: Do like yellow perch, have different  
15 closings for different rivers.

16 MR. KEEHN: Exactly.

17 MR. GROSS: As long as we don't have to put tags on  
18 them.

19 MR. BROOKS: Okay.

20 MR. GARY: All right, so we --

21 (Asides)

22 MR. GARY: The conflict, for the record, is Bob has  
23 a -- I better check that. I wonder if that is a joint  
24 meeting.

25 (Simultaneous conversation)

1           MR. KEEHN: The 22<sup>nd</sup> is next week's meeting for sport  
2 fish. I thought March's was in the teens somewhere.

3           MR. GARY: I tell you what. When Matt is giving his  
4 presentation, I will go up and just double check this and come  
5 back.

6           But the action item remains the same. So the  
7 department will come back at the next Tidal Fish Advisory  
8 Commission meeting and give a more comprehensive presentation  
9 on the effect of harvesters in the fishery, characterize that  
10 fully, and also the biological information for Bill's request,  
11 specifically as we can deliver that -- river specific. Also  
12 look at recruitment and other variables.

13           MR. SADZINSKI: I did this before that commission  
14 two years ago though, which gave river specific information,  
15 age structure --

16           MR. DUKES: That wasn't us.

17           MR. SADZINSKI: Oh, I know but that was a 45-minute  
18 talk. So if you give me two hours, I will give you the meat  
19 and potatoes.

20           MR. GARY: I am going to go check those dates.

21           MR. BROOKS: All right. We will move forward then  
22 with Commercial Striped Bass Management Update. Matt?

23

24

25



**Commercial Striped Bass Management Update**

***by Matt Lawrence***

MR. LAWRENCE: I am Matt Lawrence, and I am with Commercial Striped Bass Management. And I am going to talk to you a little bit today about the striped bass season, how things are going, a quick update on the transfer process that is coming up next month.

Today I will be talking to you about the January/February gill net season.

(Slide)

It has had some ups and downs. The 2010 striped bass gill net quota was set just under 900,000 pounds for the year. The January and February quota in specific was about 750,000 pounds.

The December quota for 2010 is 145 or so, thousand pounds. For January and February we decided to break it into two parts this year. This is based on the recommendations of the Striped Bass Industry Workgroup. We separated out 631,000 pounds and made that available in January. We are going to let them run through that. We set aside 125,000 pounds for the last week in February.

Daily quota was set at 500 per day per permit, and the vessel limit was 2,000 pounds per vessel. That is where we started the season.

First, a little bit over a week of the season was

1 moving very quickly. We had a couple of days over 50,000  
2 pounds. Things were moving along very fast. The average  
3 harvest per day was just under 44,000 pounds per day, and I  
4 was receiving a number of calls from both dealers and  
5 fishermen, Striped Bass Industry Workgroup members, that were  
6 concerned about the harvest rates, concerned about the market  
7 being flooded, having a number of issues with this.

8           Considering the way we were moving through that  
9 quota, we decided to go ahead and close the fishery.  
10 Fishermen were allowed to harvest through January 11<sup>th</sup>, and we  
11 closed it on the 11<sup>th</sup>.

12           (Slide)

13           So the remaining quota after we closed on 11<sup>th</sup> was  
14 312,874 pounds. That is quite of bit for that  
15 January/February lumped quota. That was almost half of it  
16 that we got, went through in just over a week. And at that  
17 early January harvest rate, we only had about 7 days worth of  
18 quota remaining. We were looking at closing on January 26<sup>th</sup> at  
19 that point. So the season was just moving along way too  
20 quickly, so we called a meeting with the Striped Bass Industry  
21 Workgroup.

22           We brought them in on January 12<sup>th</sup> and asked them to  
23 make a recommendation on how we could properly manage this.  
24 The recommendation, the unanimous recommendation by the  
25 workgroup was to reduce the daily allocation to 300 pounds per

1 permit per day, and 1,200 pounds per vessel per day.

2           Reduce the active number of fishing days to three,  
3 those days being Monday, Tuesday and Wednesday. And then we  
4 went ahead and reopened the gill net season on January 18<sup>th</sup>.

5           (Slide)

6           So this is just a quick bar graph of how the harvest  
7 rates were doing, or how many pounds were harvested per day.  
8 You will note that in early January, harvest, the daily  
9 harvest was much higher as opposed to later.

10           The reopening was on January 18<sup>th</sup>, and we saw a drop.  
11 Those two bad weather days on January 25<sup>th</sup> and February 10<sup>th</sup>.  
12 But otherwise, we managed to lower the daily harvest and  
13 actually extend the season because of that.

14           So after the workgroup made its changes, the average  
15 daily average harvest dropped to 23,251 pounds per day.

16           (Whereupon Tape 1, side A ends, and Tape 2, side A,  
17 begins).

18           MR. LAWRENCE: That was from about 44,000 or 45,000  
19 per day, and the season continued through February 10<sup>th</sup>. We  
20 did have to close it on February 10<sup>th</sup>. And again, you will  
21 note my earlier projection was that we would have to close the  
22 season down on the 26<sup>th</sup>, January 26<sup>th</sup>, so we managed to extend  
23 the season for several more weeks.

24           On top of that, we have plenty of quota remaining  
25 for that last week of February. We have 157,000 pounds that

1 will reopen on February 22<sup>nd</sup>. The fishery will be open the  
2 22<sup>nd</sup> through the 28<sup>th</sup>. Now that will of course be depending on  
3 harvest rate, so we may have to close that last weekend down.  
4 We are not sure yet, but it depends on how quickly things get  
5 harvested on Monday and Tuesday.

6 We are reopening at 300 pounds per permit per day,  
7 and 1,200 pounds per vessel per day.

8 (Slide)

9 For the most part, the feedback that I have received  
10 has been pretty positive. Please let me know if you have  
11 heard otherwise. But in general, the fishery seems to have  
12 moved along pretty well once we made the changes to it based  
13 on the workgroup's recommendations. Yes?

14 MR. SIMMS: You know, what we have done is stabilize  
15 the price. The price went back up, we stabilized the price.  
16 Fellas did a lot better on a 300 pound a day, three days a  
17 week, than they would have if they went on and caught it  
18 because the price was going right on down.

19 MR. DUKES: Prices are holding really good for this  
20 time of year compared to last year.

21 MR. SIMMS: It really did what we wanted it to do.

22 MR. LAWRENCE: The workgroup did a great job. They  
23 came in, they made a unanimous decision on this. We were able  
24 to implement it quickly and move forward, and it is not just  
25 the fishermen who are happy. I have received a number of very

1 positive phone calls from fish dealers as well that have been  
2 pretty happy with the results.

3 MR. GROSS: Matt, I just want to say I want to thank  
4 you too because you have been doing a dynamite job keeping us  
5 informed, so that we can get our guys informed about this, and  
6 I just wanted to make that known.

7 MR. LAWRENCE: Thank you, thank you very much.  
8 that you have been doing a great job.

9 MR. GROSS: The phone calls and stuff have been  
10 great because I can get to my guys and tell them what is going  
11 on, and I think you are doing a fantastic job.

12 MR. SIMMS: I support that too. Very good.

13 MR. LAWRENCE: Thank you.

14 MR. GARY: What has the price been holding at?

15 MR. GROSS: \$1.75, \$1.85.

16 MR. DUKES: Right now, getting there in Cambridge is  
17 \$1.75, \$2.00 and \$2.25.

18 This time last year, we were getting \$1, \$1 and a  
19 half, or .90 and \$1 and a half. So by cutting down to 300  
20 pounds a day, it has kept the price up.

21 MR. SIMMS: There has been a lot of talk by the  
22 fellas that that is the way we should open it up next year  
23 too.

24 MR. LAWRENCE: I have heard that. At the very  
25 least, if we don't just move forward with this plan already,

1 we are at least going to address the workgroup with it and see  
2 what they have to say.

3 I think that has been the agreement within  
4 fisheries. So that is where the gill net season is looking.  
5 That is how we are doing so far. So we will reopen on the 22<sup>nd</sup>  
6 at 300 pounds per permit.

7 MR. DUKES: So really we got almost 158,000 pounds  
8 for the last 7 days.

9 MR. LAWRENCE: Correct.

10 MR. DUKES: So that should, just like -- of course,  
11 I have talked to you about it, but with what you got there and  
12 what we caught and what we had at the meeting, that should  
13 take the guys, the 7 days, and I like I told you, that last 2  
14 days meant a lot for a lot of the guys because it is a great  
15 good while, with it being like it is now, before they can  
16 start doing something else.

17 MR. GROSS: And when is that going to open up?

18 MR. DUKES: Monday.

19 MR. LAWRENCE: Monday the 22<sup>nd</sup>.

20 MR. DUKES: Monday through Sunday.

21 (Slide)

22 MR. LAWRENCE: Okay, and just a brief update on the  
23 transfer period. Again, as requested by the Striped Bass  
24 Industry Workgroup, we do have an open transfer period coming  
25 in March. This is specific to annual transfers, or almost

1 specific to annual transfers, for 2010 hook and line and pound  
2 net permits.

3           The reason why we went ahead with this is because  
4 there was some concern about -- the 2010 transfer period was  
5 actually in August of 2009, and that is a long period between  
6 August and June when these fisheries begin. So we went ahead  
7 and we wrote into regulation a March transfer period for hook  
8 and line and pound net permits.

9           So annual transfers will be available during 2010.  
10 The service centers will also be accepting permanent transfers  
11 at that time. However, permanent transfers can take place any  
12 time of the year. You just have to come to me to do it.

13           We actually already received a quite a few  
14 pound net and hook and line transfer applications from last  
15 year during August, so the process has already moved forward  
16 quite a bit. So I decided to go ahead and save the state a  
17 few dollars rather than sending everybody an application in  
18 the mail, I am going to put them in the DNR service centers  
19 and have them by request.

20           If you give me a call, I will mail it to you. That  
21 information was provided in a letter that was sent last week  
22 so it should be arriving. If it hasn't already arrived, and I  
23 know it has gotten to some people, but it will be arriving  
24 this week again if you haven't received it already.

25           Just a reminder. The rules are permit holders may

1 hold up to five pound net permits or one hook and line permit,  
2 but you cannot hold both a hook and line and a pound net  
3 permit.

4 MR. BENJAMIN: I got a question for you.

5 MR. LAWRENCE: Sure.

6 MR. BENJAMIN: We are in that one hook and line  
7 permit per boat but I got two hook and line guys on that boat.  
8 Why can't we hold two hook and line permits on one license? I  
9 mean, is there -- how can we get that changed? That is really  
10 a handicap for some of us that are hook and line fishing.

11 I have to have two licenses, one transfer to  
12 somebody and take that person with me every time I go fishing  
13 so I can have two allocations. I am allowed to have two  
14 allocations on the boat as long as that person is with me.

15 But the pound netters are allowed to have five  
16 allocations, and you only have to be -- he can be on a boat by  
17 himself.

18 MR. DUKES: Same way with net holders.

19 MR. BENJAMIN: If we are allowed to have two  
20 allocations per hook and line boat, why can't we have both  
21 allocations on one license? We need to look into that.

22 MR. LAWRENCE: Well, the initial reasoning as I  
23 understand it was when this process was developed it was to  
24 encourage fellas that were pulling fish out of pound nets and  
25 tagging them as hook and line fish, to switch those hook and



1 line permits into pound net so they could hold multiple pound  
2 net permits now.

3 While at the same time preventing guys who hold hook  
4 and line permits from pulling a lot of fish out of those pound  
5 nets.

6 So that is why hook and line was limited to the one  
7 permit allocation per licensee, and pound netters were allowed  
8 to hold multiple permits.

9 MR. BENJAMIN: Is that still applicable since we are  
10 tagging with the pound nets and everything? We have kind of  
11 slowed that way down.

12 MR. LAWRENCE: We are hoping, I mean we are  
13 still -- these regulations are still fairly new, so I don't  
14 believe that we have a full analysis yet as to whether that  
15 is --

16 MR. BENJAMIN: We need to look into that because  
17 that really is beginning to count for us hook and line guys.  
18 Thank you.

19 MR. KEEHN: I was just going to say I kind of  
20 disagree. No offense. The same thing happened to hook and  
21 line this summer. Remember, we were trying to get it, and all  
22 the fish were down south and the market went to crap and  
23 stayed crap because -- and we caught our quota last year hook  
24 and line, which hasn't happened in I don't know how long.

25 And I got the flip side reverse. I don't know if

1 | you guys did, but then the gill netters are calling saying how  
2 | come -- you know what I mean? Because usually -- that quota  
3 | was transferred. And everyone didn't understand why the  
4 | season closed so early, the gill net season closed so early in  
5 | December.

6 |           So I would say, you know, if you change that, it is  
7 | going to get caught that much faster, you know what I mean?  
8 | That much more issue.

9 |           MR. BENJAMIN: We also caught our quota quicker  
10 | because we are up to our daily limits too, which --

11 |           MR. KEEHN: I know, which dumped the market.

12 |           MR. BENJAMIN: That was a mistake. We need to look  
13 | into that.

14 |           MR. KEEHN: Which dumped the market.

15 |           MR. BENJAMIN: We had a good price too --- quotas.

16 |           MR. BROOKS: Any other comments?

17 |           MR. SIMMS: Question. I got a call today about it.  
18 | Is the pound net quota going to stay the same?

19 |           MR. LAWRENCE: The pound net quota is going to take  
20 | a 6 percent decrease per allocation. That is reflected  
21 | by -- that is a reflection of a 6 percent decrease to the  
22 | commercial, to the entire Maryland quota as a whole. So as a  
23 | state we took a 6 percent drop. So that is reflected in the  
24 | individual allocations.

25 |           MR. SIMMS: I didn't realize we took that 6 percent

1 cut.

2 MR. LAWRENCE: Last year the allocation was 4,000  
3 pounds. Off the top of my head, I believe this year it will  
4 be 3,760 pounds for the full allocation, certified allocation.

5 MR. YOUNG: Is this where we should talk about  
6 tagging the fish at the -- the hook and line fish as soon as  
7 they are caught?

8 MR. BROOKS: Marty, what do you think?

9 MR. GARY: Well, I think it is probably fine. You  
10 have Matt here, who oversees the fishery, and Harley is  
11 affiliated with the penalty workgroup. So if you like to, we  
12 have a few minutes.

13 MR. BROOKS: Okay. Have at it.

14 MR. YOUNG: There has been some talk, and it has  
15 been going on for a while, and I know Mike expressed it at the  
16 last meeting, that we really need to talk about trying to get  
17 the department to allow us to keep some untagged fish on the  
18 boat while we are hook and line fishing.

19 A certain amount of them because when the bite is  
20 on, Larry already mentioned it tonight, when the bite is on  
21 the bite is on, and we don't have time to sit down, we need to  
22 catch the fish. We don't have to tag the fish.

23 So is there any way -- right now the law says it has  
24 got to be tagged when it is caught.

25 MR. SIMMS: That is a regulation, isn't it? Could

1 we make a motion to change that regulation? It might not get  
2 done but we could make a motion.

3 MR. BROOKS: Sure, we could make a motion.

4 **MOTION**

5 MR. SIMMS: Well, to speed things up here, I make a  
6 motion that we change the regulation to say you have got to  
7 have the fish tagged before you leave the area.

8 MR. BENJAMIN: Before you are under way.

9 MR. SIMMS: Before you are under way.

10 MR. BENJAMIN: That means -- under way, Coast Guard  
11 standard is the boat is in gear moving.

12 MR. YOUNG: What about the troll?

13 MR. BENJAMIN: We could have a -- you troll, I don't  
14 troll much but just ask you this question. Like 10 untagged  
15 fish any given time? That is not enough to poach. Let's all  
16 be honest here. 10 fish doesn't make a hill of beans one way  
17 or the other. But the guy trolling, if he has a couple lines,  
18 has a couple on the deck, he is trolling, it is not  
19 unreasonable. When it is hot --

20 MR. YOUNG: When it is hot, it is hot.

21 MR. BENJAMIN: You are not going to have more than  
22 10 fish trolling on deck at any given time. Do you think?

23 (Simultaneous conversation)

24 MR. SIMMS: When you wind your lines up and you get  
25 under way, then you need to have them all tagged. And in that

1 motion, I want to make it the pound netters can tag his fish  
2 running from one net to the other.

3 MR. BENJAMIN: No.

4 MR. BROOKS: Well, let's take -- maybe we ought to  
5 take one motion at a time, but both issues need to be taken up  
6 for sure.

7 MR. SIMMS: Well, take the first one first.

8 MR. DUKES: I will second Larry's motion for that  
9 first one.

10 MR. BROOKS: All right, can you -- we need to --

11 MR. GARY: Let's go back through it one more time.  
12 Take it slow, Larry and then we will try to read it back to  
13 you.

14 MR. SIMMS: That you don't have to have your fish  
15 tagged until you are under way.

16 MR. GARY: This is pound netters?

17 MR. SIMMS: No, this is hook and line.

18 MR. GARY: If you are hook and line fishing.

19 MR. SIMMS: Hook and line fishing, you don't have to  
20 tag -- you can have untagged fish on the boat unless you are  
21 under way.

22 MR. SPEIR: How does that exempt trollers?

23 MR. SIMMS: The trollers, same thing. When he is  
24 trolling, he has got gear in the water so he is not really  
25 under way. When he winds his lines up and goes to start and

1 move out of the area --

2 MR. DUKES: Then he should have them tagged. When  
3 he pulls his lines up, his lines are in the boat, his fish  
4 should be tagged.

5 MR. KEEHN: Can I make a suggestion, Larry?

6 MR. SIMMS: Yes.

7 MR. KEEHN: You just refine under way as running  
8 with no gear in the water.

9 MR. SIMMS: That is good.

10 MR. GARY: Let's start it this way and then help me  
11 with this. So the motion is made by Larry Simms to allow hook  
12 and line commercial, striped bass commercial hook and line  
13 vessels to not be required to tag striped bass until all gear  
14 is retrieved and the vessel is under way.

15 So you don't -- well, they are actively fishing.

16 MR. SIMMS: Once you are under way, they all got to  
17 be tagged.

18 MR. DUKES: Right now, the way the regulation says  
19 now, when you pull it up you got to tag it. Anybody knows  
20 that when you are out there and when it is hot, you ain't got  
21 time to sit there and tag each fish.

22 MR. BROOKS: Larry, is that the language you want on  
23 your motion?

24 MR. GARY: Let me get one more crack at it before we  
25 add a second and then vote. Motion made by Commissioner Larry

1 Simms to allow commercial striped bass hook and line vessels  
2 to not be required to tag striped bass until all gear has been  
3 pulled aboard and the vessel is under way? Is that correct?

4 MR. SIMMS: I am not sure that is a good way to word  
5 it because it is almost saying you don't have to tag any of  
6 them. You should try to tag them as soon as you can.

7 MR. GOLDSBOROUGH: How about once the vessel is  
8 under way, you are no longer fishing?

9 MR. SIMMS: Yes, they must be tagged. Say it the  
10 other way. They must be tagged once the vessel is under way,  
11 and no gear is in the water.

12 MR. GARY: Motion made by Commissioner Larry Simms  
13 to require commercial striped bass hook and line vessels to  
14 have all fish tagged once the vessel's gear is pulled aboard  
15 and the vessel is returning to port or under way.

16 MR. KEEHN: Just say under way.

17 MR. SIMMS: Just under way, not returning to port.  
18 Just under way because they may be moving from one spot to the  
19 other, but they still need to tag them before they move.

20 MR. KEEHN: Marty, you could just say must be tagged  
21 when the vessel is under way, and then just have a subnote  
22 that says under way is defined by running and no gear in the  
23 water. That kind of nails it down a little better.

24 MR. BROOKS: Got it?

25 MR. GARY: I think so.

1 MR. BROOKS: We got a motion. Russell seconded.

2 Discussion?

3 MR. GOLDSBOROUGH: You said fish but he means just  
4 striped bass, right?

5 MR. SIMMS: Striped bass. Yes, you should say  
6 striped bass.

7 MR. GARY: Let's try one more time. Motion made by  
8 Commissioner Larry Simms to require commercial striped bass  
9 hook and line vessels to have all striped bass tagged prior to  
10 the vessel being under way -- under way being defined as  
11 vessel having gear pulled and returning to port.

12 MS. JACQUETTE: No, not returning to port.

13 MR. SIMMS: They may be going from one area to  
14 another.

15 MR. GARY: Just under way.

16 MR. KEEHN: Under way means no gear in the water and  
17 the boat is moving.

18 MR. SPEIR: Being the one to actually wind up  
19 writing this, what you want -- what this says is they have to  
20 be tagged before you are under way. But it doesn't allow you  
21 to have untagged fish on there, on the boat. And that is what  
22 you want. So we need to fit that idea in there, that a person  
23 may have untagged fish, striped bass, on the boat until the  
24 vessel is -- until gear is pulled from water and the vessel is  
25 under way.



1 MR. SIMMS: That is good. We will accept that  
2 change.

3 MR. GARY: Let me see if I can --

4 (Simultaneous conversation)

5 MR. GARY: Motion made by Commissioner Larry Simms  
6 to allow commercial striped bass hook and line vessels to have  
7 untagged striped bass while the vessel is actively fishing and  
8 is not under way. All striped bass must be tagged once gear  
9 has been pulled and the vessel is under way. Did I get it,  
10 Harley?

11 MR. KEEHN: Let Harley do it. I make a motion to  
12 let Harley do it.

13 MR. SPEIR: I will take it verbatim from the  
14 recording.

15 MR. BROOKS: Larry, you accept that for your motion?

16 MR. SIMMS: Yes.

17 MR. BROOKS: Russell, you accept that for your  
18 second?

19 MR. SIMMS: What Harley said.

20 MR. BROOKS: We have got a motion by Larry and a  
21 second by Russell. Whatever the recording says. Discussion?

22 (No response)

23 MR. BROOKS: No discussion? We will have a vote.

24 MR. GARY: You have to take public comment.

25 MR. BROOKS: Public comment. Excuse me. That is

1 right. Public comment on the motion?

2 (No response)

3 MR. BROOKS: Hearing none, we will have a vote. All  
4 in favor of the motion, aye?

5 (Chorus of ayes)

6 MR. BROOKS: Opposed?

7 (No response)

8 MR. BROOKS: Motion carried.

9 MR. GARY: No abstentions?

10 (No response)

11 MR. GARY: All in favor?

12 MR. BROOKS: All in favor. Unanimous.

13 MR. SIMMS: Now I will make the other motion,  
14 that -- and Harley may have to help me word this one too.

15 MR. GARY: Thank was an 8-0 vote, by the way.

16 **MOTION**

17 MR. SIMMS: Let me give you what the idea is,  
18 Harley. We want the pound netters to be able to leave the net  
19 and tag his fish going from one net to the other but not being  
20 within so much distance of shore.

21 I don't know how to word that, whether a couple  
22 miles from port or whatever, so that you can't take them in  
23 untagged, but while he is traveling he could be tagging them,  
24 because it is a lot of wasted time. It takes a long while to  
25 tag 1,500 ton of fish. And you are just laying there and you

1 have got to run to another net, you could be doing that while  
2 you --

3 MR. BROOKS: It is hot.

4 MR. SIMMS: So Harley, you word that.

5 MR. GOLDSBOROUGH: Word it so somebody can't just  
6 say they are going to a net when they are really not.

7 MR. BENJAMIN: We don't want another loophole. We  
8 got it pretty tightened up. That is what scares me, Larry.

9 MR. SIMMS: We don't want them within so many --

10 MR. KEEHN: A thousand yards.

11 MR. SIMMS: Well, a mile from port or something.

12 MR. KEEHN: Well, you can't say mile because some of  
13 those pound nets are close to shore. But I think 1,000 yards  
14 can cover you.

15 MR. SIMMS: Well, you got to have something. Well,  
16 if he is that close to port, he can stay to his net.

17 MR. BROOKS: How about a mile or at the net,  
18 whatever is closest, or something like that, because that  
19 would be --

20 MR. SIMMS: If the net is closer than a mile he  
21 could just stay to his net and tag them. He is not that far  
22 to run.

23 MS. JACQUETTE: Well, why don't you just put on  
24 there -- because you are talking about somebody who may have  
25 more than one net to fish, correct?

1 MR. SIMMS: Yes, right.

2 MS. JACQUETTE: Before he leaves his last net.

3 MR. GROSS: But you don't know --

4 (Simultaneous discussion)

5 MR. SIMMS: Down like Hoopers Island, they fish over  
6 there near Solomon's Island. They got an hour and a half run  
7 towing a boat that they could be tagging all the way across  
8 there.

9 MR. KEEHN: Harley, I ask you, what would be the  
10 disadvantage of -- I mean, the whole point of the law was to  
11 make sure those fish didn't come in, as I understand it, with  
12 different kinds of tags, hook and line tags or -- that is kind  
13 of where this all started, right?

14 MR. SIMMS: You can't have but one kind of tag on a  
15 boat.

16 MR. KEEHN: I know.

17 MR. DUKES: That is -- took care of that when we  
18 voted on that. You could only have one kind of tag.

19 MR. KEEHN: I know but I am saying -- that was the  
20 spirit of this whole regulation, so I mean, it is not hurting  
21 -- if we change that, would it make --

22 MR. GROSS: Larry, I would say we need to be able to  
23 live with it because you don't want to make a motion that we  
24 are going to not pass.

25 But I would say -- even if you were so many feet

1 away from the net because you can get under way and have those  
2 fish tagged long before you get to your other net. If we make  
3 a certain amount of feet, because the main problem is when it  
4 is rough, we have got to get away from that net because you  
5 are talking -- you take your crib down or your pocket down,  
6 you are talking a day's work.

7 MR. SIMMS: What they are saying is you could be 200  
8 feet from the net so that means you could anchor off the net.  
9 But that is another problem to have to anchor --

10 MR. GROSS: No, I don't want to have to anchor.

11 MR. SIMMS: But that is the way it is now.

12 MR. GROSS: Right, but no, if we could get half a  
13 mile, if we could be a half a mile away from the net, because  
14 by the time you get your --- tied up, you got men tagging  
15 while you are doing that, and get under way. In a half a  
16 mile, you have got your fish tagged, or you just creep along  
17 until you get that half mile away from the net. And you have  
18 got those fish tagged.

19 Anything. I just don't want us -- if you say --

20 MR. SIMMS: No, we don't want to do something that  
21 ain't going to pass.

22 MR. GROSS: Because if you could -- if I have got a  
23 net in Herring Bay, and then I got one up in Fishing Creek,  
24 that is six miles I may be running with untagged fish on the  
25 boat.

1                   MR. DUKES: Yes, you want something that is going to  
2 pass.

3                   MR. BENJAMIN: You do pound nets. Would a half a  
4 mile work?

5                   MR. GROSS: Half a mile would work for me but I am a  
6 small pound netter. Some of these guys that catch a lot of  
7 fish --

8                   MR. SPEIR: You want two things. You want to get  
9 away from the net. And you want to be able to run to the next  
10 net, which is two miles away, and tag while you are under way.  
11 So they are two different things here that you are talking  
12 about.

13                   We can do within a half mile of a net. You just  
14 move away from the net. But I don't know how we are going to  
15 get that ability to move from net to net with the same --

16                   MR. SIMMS: Well how about you give them a mile,  
17 because the fellas that are catching some fish, it would take  
18 -- they might not get them all tagged in a mile but it would  
19 help them a lot.

20                   MR. DUKES: You said you are the one who has got to  
21 write it, Harley.

22                   MR. SIMMS: But you also want to be at least a mile  
23 away from the dock or something. If it is set close to dock  
24 we don't want them going into shore --

25                   MR. BROOKS: Unless those nets are within a mile of

1 the dock.

2 MR. KEEHN: That is why I say the easiest way to do  
3 this is just if everything, that is what I wondering, is just  
4 to say you must have tagged rock fish within a mile from shore  
5 or at the net.

6 MR. GROSS: Doesn't the law say you can't come to  
7 shore with untagged fish? The law says that. There is a law  
8 that says you can't come to a landing with untagged fish.

9 MR. GOLDSBOROUGH: I think what Brian is saying we  
10 want to make sure we don't conflict with that law. We don't  
11 to give an exemption to that law.

12 MR. KEEHN: What I am saying -- you say a mile from  
13 shore, then you can get away from your net, and you can run  
14 net to net, and really what could you do wrong? Right now,  
15 because you can't have the tags, can't have two different  
16 types of tags, so what is the downside, I guess is my  
17 question, Harley, if we did that.

18 MR. SPEIR: I am sorry. I was thinking.

19 MR. KEEHN: My question is --

20 MR. GROSS: Outside of public perception, Brian, I  
21 don't see any problem with it. Outside of just public  
22 perception that this commission would be relaxing the  
23 regulation. Outside of public perception, I don't see a  
24 problem with it. Be we have got to think about public  
25 perception.

1           MR. KEEHN: I know. The spirit, what we are trying  
2 to do is safety and time. Those are the two things we are  
3 trying to save. I am just trying to say, if there isn't any  
4 down -- if we portray it the right way, that that is what we  
5 are trying to do, and there isn't a downside, that is what I  
6 am trying to get to. Is there a downside by doing that?

7           MR. SIMMS: Let's ask the marine police what the  
8 downside is.

9           MR. DUKES: Okay, Nick.

10          MR. SIMMS: He is sitting back here awful quiet.

11          MR. POWELL: (off mic) I am listening. Why was the  
12 law put in. I haven't been out in the field for three years.

13          MR. SIMMS: It was put in because they were using  
14 hook and line tags to tag pound net fish. They just kind of  
15 went overboard with that law, and that is why we are trying to  
16 change it.

17          MR. POWELL: (off mic) And now you are out giving  
18 line tags to the pound netters.

19          MR. SIMMS: Right. They can't carry --

20          MR. POWELL: (off mic) Or if they want to get them,  
21 they probably will. Of course, the guys that work in the area  
22 know what the guys are out there catching. It is how they are  
23 catching them. I would have to look into it more before I  
24 said anything.

25          MR. SIMMS: We just want to give a little leeway



1 | there, but we don't want to give them room to abuse the  
2 | system.

3 |           MR. SPEIR: Hasn't this issue been discussed at the  
4 | Striped Bass Industry Workgroup?

5 |           MR. SPEIR: My goodness, yes.

6 |           MR. SIMMS: Yes.

7 |           MR. SPEIR: Well, I will tell you what. I am going  
8 | to try to incorporate two things. All I am doing is I am  
9 | acting as your mouthpiece. I am not saying I am -- that we  
10 | are going to do this or I support it or I don't support it.

11 |           But I will honestly try to draw up a couple of  
12 | regulations with the words that incorporate both the safety  
13 | aspect and the travel time. Do we have a workgroup meeting  
14 | scheduled?

15 |           MR. DUKES: It is supposed to be sometime in March.

16 |           MR. SPEIR: Okay, I will e-mail it then or send it  
17 | back around then to the full commission. And then we can bring  
18 | it up at the next workgroup and the next tidal fish meeting.

19 |           MR. BROOKS: Is that agreeable?

20 |           (Chorus of yes)

21 |           MR. GARY: So this is going to be an action item.  
22 | The department will go ahead and forward this to the  
23 | commission, and it will be on the agenda for the next Striped  
24 | Bass Industry Workgroup. Is that right, Harley?

25 |           MR. SPEIR: Yes.

1 MR. BROOKS: Okay. Sounds fine. Anything else for  
2 Matt?

3 (No response)

4 MR. BROOKS: Okay, next, Blue Crab Management  
5 Update. Marty.

6 **Blue Crab Management Update**

7 ***by Marty Gary***

8 MR. GARY: Brenda wasn't able to join us tonight,  
9 but the main reason why we had this agenda item for you is to  
10 remind you of the current management process.

11 We are in the midst of the winter dredge survey, an  
12 annual survey. You are all familiar with that. We anticipate  
13 that we will have the results of that survey available in  
14 early April. Of course, that is going to drive any decision  
15 making for the coming year in terms of allocations and how  
16 that plays out.

17 There will be a public notice that will be  
18 distributed in March that will reinforce that we are at status  
19 quo in terms of bushel limits, and also address the changes to  
20 the recording system.

21 I will let Harley jump in if he would like to, but  
22 the changes, the major substantive changes that have occurred  
23 involve bar coding of the reporting forms. I think many of  
24 you are familiar with that, that initiative. And so what that  
25 is going to allow us to do is more accurately and

1 expeditiously assess whether or not late reports are  
2 occurring.

3           There are suspensions for late reports. In the past  
4 we have not been able to really stay right up on top of it,  
5 but this will allow us to assess, I believe within about a  
6 two-month timeframe, Harley?

7           MR. SPEIR: Or shorter.

8           MR. GARY: Whether or not reports are late. And so  
9 that we can act on that. So we want to make sure everybody is  
10 aware of that. Then also coming up is the, it is a  
11 designation for, you have to designate, I  
12 guess -- Harley, jump in and help me on this one -- either for  
13 male only or to put a hold on the license. Is that correct?

14           MR. KEEHN: The LCCs.

15           MR. GARY: The LCC designees. The LCCs. The major  
16 difference there is if you put a hold on it, when the  
17 department deems they can free those up again, you would still  
18 have, retain all authority for transfer. But you would not if  
19 you designate for male only. I think most of the folks are  
20 familiar with that.

21           MR. KEEHN: What did you say now?

22           MR. GARY: For the male only, you don't get that  
23 transferability option, do you? Is that right, Harley?

24           (Simultaneous discussion)

25           MR. SIMMS: He just explained it.

1 MR. KEEHN: No, he didn't. He just said --

2 MS. JACQUETTE: He didn't explain why --

3 MR. YOUNG: The inactive LCCs, the ones that haven't  
4 reported, they gave them the option to sell them back or you  
5 have these two other options. It is either freeze them or --

6 MR. KEEHN: Male only.

7 MS. JACQUETTE: Male only.

8 MR. KEEHN: But why can't you transfer your license?

9 MR. YOUNG: That was part of the stipulation in the  
10 deal. They said that if you went male only, you would not be  
11 able to transfer your license. If you put it on a shelf, you  
12 could transfer it.

13 MR. KEEHN: Temporary transfer, not permanent  
14 transfer.

15 MR. YOUNG: Permanent, I thought.

16 MR. KEEHN: Harley?

17 MR. SPEIR: The more we talk about it, the less sure  
18 I am.

19 MR. SIMMS: Remember, this is for people that didn't  
20 report catching anything.

21 MR. KEEHN: Oh, never mind then.

22 MR. YOUNG: This isn't everybody.

23 MR. KEEHN: But that is different than the rest of  
24 the reports, Harley? I mean, we came up with the reporting  
25 where one month late, you get a warning. Two months late, you

1 get a letter saying -- I saw it somewhere in here.

2 MR. SPEIR: It is in here.

3 MR. KEEHN: So basically you have to be two months  
4 late twice to get suspended is how it we worked it out.

5 MR. SPEIR: I think that is correct.

6 MR. YOUNG: Yes.

7 MR. KEEHN: That is how we worked it out. But you  
8 are saying it is different for crabs?

9 MR. SPEIR: No, no, no. What Marty is talking about  
10 is for the LCCs that are inactive. You have three options:  
11 buyback, freeze it or male-only harvest. And what he said was  
12 if you take the option of freezing your license, that you  
13 cannot transfer that license.

14 MR. KEEHN: Because you are late on your reports.

15 MR. SPEIR: No.

16 MR. SIMMS: It ain't got nothing --

17 MR. SPEIR: This doesn't have anything to do with  
18 reporting.

19 MR. SIMMS: Drop the reports, and it is about people  
20 that didn't report anything on the LCC, their options are --

21 MR. SPEIR: Right. They did not crab any between  
22 2004, 2008.

23 MR. KEEHN: Oh.

24 MR. YOUNG: Or they say they didn't.

25 MR. KEEHN: I got you. We are good.

1 MR. BROOKS: All clear?

2 MR. GARY: So the public notice will be coming out  
3 in March.

4 MR. GROSS: I have got a question for Marty. Marty,  
5 is it any way possible the department can get that crab dredge  
6 survey before the season?

7 That really puts us in a bind when we get that  
8 report after seasons start because the way I see it, and being  
9 involved in blue crab management over the years, we should be  
10 combating regulations in that right now to have them in place  
11 by the first of April.

12 And then by getting that report then, we are into  
13 June before we can actually make any decisions in that  
14 fishery. Is there any possible way because I know it is  
15 done -- I don't know what the process is of collecting all the  
16 data and putting it all together and everything. But I know  
17 the actual survey is done long before the first of April.

18 MR. GARY: Harley can tag team and help me too, but  
19 I think they are doing their very best to kind of expedite  
20 that but they have got to have that data right and it is  
21 purged and it is analyzed -- it is a pretty regimented  
22 exercise biologists have to go through, and they get it to you  
23 when they can get it to you.

24 MR. GROSS: It is just real tough.

25 MR. SPEIR: It is something that we realize, and we

1 have been doing this now for two decades and it is  
2 just -- it is a hard thing to do quickly.

3 MR. GARY: When is the last day of the survey?

4 MR. GOLDSBOROUGH: It is like 1,500 sites. A ton of  
5 data bay-wide.

6 MR. SPEIR: 1,500 sites. We are also dealing with  
7 Virginia. VIMS does their survey, we do our survey, we have  
8 got to put those two together.

9 MR. BROOKS: To follow up on J.R.'s concern, I mean,  
10 you know, like a couple years ago, you had the results and  
11 everything was pushed back to the end of the season. And so,  
12 you know, any adjustments here and it is going to be pushed  
13 back just by the regulatory timeline. It is kind of a flawed  
14 timeline really.

15 MR. SPEIR: It is an inconvenient timeline --

16 MR. BROOKS: No, it is more than an inconvenience.

17 MR. SPEIR: -- dictated by --

18 MR. BROOKS: It is a devastating timeline.  
19 Inconvenience doesn't touch it.

20 MR. SPEIR: I know -- I don't mean to be cavalier  
21 and say it is inconvenient to you guys. It is a real problem,  
22 but it is the way things work out, the way the survey is run  
23 and the way we have the regulatory authority to issue either  
24 public notice or regulations.

25 MR. GROSS: Next question I have is the department,

1 I feel, really, really needs to take a look at if the survey  
2 shows that the fishery can sustain relaxing regulations,  
3 because we -- and I say this every year, it is getting  
4 monotonous -- we don't anything back.

5           Once there is a regulation put in, we don't get  
6 anything back, and the crab survey, I know, is not the same  
7 every year. And the years it comes up, we don't get anything.

8           And we have been asking, especially in the trot  
9 lines because it is killing us right now. Time. Time on trot  
10 liners is killing us. We don't have enough time to do what we  
11 do. We have got more recreational crabbers than we have ever  
12 had. And conflict between commercial trot liners and  
13 recreational trot liners is terrible. I mean right down to I  
14 have been pepper sprayed.

15           It is really getting bad, so I need the department  
16 to really look at trying to give the commercial guys, when we  
17 can, something back. And not just on the survey, but the  
18 stuff that doesn't work, that didn't work, that we put in and  
19 it hasn't changed one thing, hasn't made the crabs come back  
20 or anything, if it is not working and it didn't do anything,  
21 it is not saving any crabs, we need it back.

22           Because just like I got a real problem with the  
23 department buying the LCCs back that weren't in use anyway.  
24 That did nothing for us. That did nothing for the crab  
25 population because those licenses weren't in use anyway. I



1 think that money could have been better spent. That is water  
2 under the bridge now.

3 But I need the department to look at if it didn't  
4 work and you didn't see an increase in crabs because you put  
5 that regulation in, just like I don't believe the time on the  
6 trot liners -- trot liners got a raw deal on that time deal.

7 I am a crab potter and a trot liner. And it is  
8 tough on you when you put an eight-hour day on a crab potter  
9 but it is even worse on a trot liner because I got to be there  
10 when that crab is biting.

11 If you can talk to the crabs, if the department can  
12 talk to the crabs and say, hey look, these guys are going to  
13 be out here working at this time and you have got to go jump  
14 on the line. That would work for me but it doesn't work like  
15 that.

16 So it is really tough because I crabbed at night. I  
17 didn't crab during the day, I crabbed at night. Now I am  
18 crabbing all day and come August when it is hot, crabs don't  
19 want to bite in the daytime. They don't want to bite in the  
20 daytime. So I got to find a spot where it is some shade,  
21 because that is where they are at.

22 MR. GARY: J.R., you are asking for an action item,  
23 it sounds like, for the department to come back and provide  
24 this commission with an assessment of the effectiveness and  
25 the impact of the trot line time constraint regulation.

1 MR. GROSS: Yes.

2 MR. GARY: Okay.

3 MR. GROSS: And all the regulations because I  
4 believe there are some regulations that -- I haven't seen  
5 where the size difference, the 5  $\frac{1}{4}$  inch crabs, has helped us.  
6 So, you know, I need you to show me where when you make a  
7 regulation, and now we have been doing it long enough that we  
8 should be seeing an impact one way or the other with these  
9 regulations.

10 And if you don't then give it back to us, because  
11 all it is, is an economical impact on us. You know, we lose a  
12 quarter inch on a crab, we lose money. And if it is not doing  
13 any good, then we lose money.

14 I don't see the big crabs. Everyone said, you know,  
15 when we went to the 5  $\frac{1}{4}$  inch crab, oh, you know, in three  
16 years' time, you will have a bigger crab across the board.  
17 That is not happening. That is not happening.

18 MR. BROOKS: 5  $\frac{1}{4}$  devastated those guys down our way.

19 MR. GROSS: It devastates the picking business, you  
20 know?

21 MR. BROOKS: And the watermen, I mean, working in  
22 areas where -- crab might only grow 5  $\frac{1}{2}$ . He's done.

23 MR. GARY: We are running a little bit short on  
24 time, but if I understand this correctly, just let me know,  
25 you would like the department to come back with an action item

1 to the next commission meeting, which by the way is March 23<sup>rd</sup>.

2 So mark that down. I will send a reminder. It is the 23<sup>rd</sup>.

3 To come back and assess both the time, size and  
4 other regulations. We will try to be as comprehensive as we  
5 can.

6 MR. BROOKS: All right, anything else on blue crab  
7 management? Larry?

8 MR. SIMMS: I got something. Let me write this down  
9 first.

10 MR. : Is it here?

11 MR. GARY: Yes, it will be here, and it is a  
12 standalone meeting.

13 MR. SIMMS: 6:00?

14 MR. GARY: 6:30.

15 MR. SIMMS: I would like to see, when you are  
16 looking at all this stuff, you know, we got a period of time  
17 there in the fall when you can't catch any females at all.  
18 That destroys the continuity of markets. If we got  
19 two-week time periods that there are no female crabs on the  
20 markets, we lose that market, and you can't get it back  
21 because they go other places to get the market. We can't get  
22 it back.

23 If there was something you could do to cut the  
24 limits down some other time or cut the limits down during that  
25 time, and spread that out so we can keep our markets going and

1 get more money for ourselves. Whatever it takes to have a  
2 continued flow of the product. It is very important in a  
3 marketplace.

4 Anytime you shut a product down for a couple weeks,  
5 you have lost it for the rest of the year. In fact, you lose  
6 it for the next year because they know you are going to be  
7 shut down and they won't buy them ahead of time. They will  
8 buy them from somebody else that is not going to shut down.

9 So anything you could do to have a continuous flow  
10 of our product would be a help to us. And I think we would be  
11 willing to give up whatever it takes to get that back. Jack,  
12 you are in that business. You can comment on what I am  
13 saying.

14 MR. BROOKS: It devastated everybody last year.  
15 People couldn't sell --- . That is the way the market shops.  
16 They shop for, when they, you know, when they can get the  
17 crabs. Where are they going to get the crabs when they need  
18 them on a consistent basis? And it killed them.

19 And a bad economic time too. I mean, it was just  
20 a -- all the stars were aligned just the wrong way.

21 MR. SIMMS: So if you could look at that and see if  
22 there is any way we could adjust that, it would really be help  
23 to the industry.

24 MR. GARY: So that action item, Larry, is to come  
25 back and see if there is some flexibility to allow for some

1 continuity in market availability

2 MR. SIMMS: Right.

3 MR. GARY: -- of blue crab harvest.

4 MR. GOLDSBOROUGH: I think Larry is saying that you  
5 still achieve the --

6 MR. SIMMS: You still achieve your goals.

7 MR. GOLDSBOROUGH: Yes, but do it in a way that it  
8 doesn't use a shut-down period.

9 MR. SIMMS: You achieve the same goals. I don't  
10 want to change your goals.

11 MR. BROOKS: But as J.R. said, this is going to be  
12 another adjustment area too, where if you do have a boost in  
13 numbers that, you know, that could be another place to look  
14 to. Go ahead, J.R.

15 MR. GROSS: Just one other thing. Maybe Marty can  
16 clear this up for me. Did we lose the five crabs per bushel?

17 MR. GARY: No.

18 MR. DUKES: No, that is still there.

19 MR. GROSS: That is still there.

20 MR. DUKES: That is still there. We agreed with  
21 that on the laws when we were doing it. That is still there.

22 MR. GROSS: I heard a rumor. I just wanted to clear  
23 it up.

24 MR. KEEHN: Not to get off subject, but just back to  
25 what you said about recreational crabbers. We just did the

1 penalties for recreational a couple weeks ago, and it will  
2 help you out, especially with the time. If they are on the  
3 water beforehand, it was a pretty stiff penalty.

4 And if they were caught with female crabs, that was  
5 a very stiff penalty as well.

6 MR. GROSS: The problem we are having with  
7 recreational crabbers is --

8 MR. DUKES: They are out there before we are.

9 MR. GROSS: That is not too bad -- the guys with the  
10 dippers, including myself. When you wind that dipper up in  
11 July, when all those little crabs come on, they think all  
12 those crabs go on the boat.

13 And they are sitting there, because I had a woman  
14 pull up alongside me, and she thinks I am just going  
15 along --

16 MR. DUKES: Dumping your dipper in a basket.

17 MR. GROSS: Well, that dipper is just scooping crabs  
18 up off the bottom. And she came up to me, her and her  
19 husband, and she said, this is why I can't catch any crabs.  
20 You are sucking them all out of the river.

21 And I tried to explain it to her, there was no  
22 explaining it to her. She was irate and she pulled out a can  
23 of pepper spray. And I said, lady, if you spray me with that  
24 pepper spray I am going to take this boat and she went  
25 shhhhhhh. And I can tell you something, when somebody hits

1 | you with pepper spray, you don't do anything but fall down in  
2 | the floor and flop around.

3 |           It took me a day to get that out of the canopy  
4 | because it went everywhere. And fortunately for me, I was  
5 | crabbing by my house, right there at the house, and I backed  
6 | into the pier and my wife come down and took the garden hose  
7 | and --

8 |           MR. DUKES: You could have her locked up for doing  
9 | that.

10 |           MR. KEEHN: That is assault.

11 |           MR. GROSS: She took off and I have never seen her  
12 | again. I had an 82-year-old man pull a 870 on me.

13 |           MR. BROOKS: Next, ASMFC. Who is on that? Harley?

14 |           MR. SPEIR: Yes.

15 |                           **ASMFC Annual Meeting**

16 |                           ***by Harley Speir***

17 |           MR. SPEIR: I am going to be brief on these. At the  
18 | last commission meeting, the Striped Bass Board voted to start  
19 | on an addendum to the Striped Bass Plan that would look at the  
20 | possibility of increasing the coastal commercial quota.

21 |           This is not a vote to increase the commercial quota.  
22 | It is a vote to start an addendum to look at the possibility.  
23 | And it is going to have to go through several steps. When I  
24 | say coastal quota, it would not affect the Chesapeake quota.  
25 | It would affect our Atlantic coastal quota, which has been

1 stuck at, what, 126,000 pounds for years.

2           The Weakfish Board, Maryland submitted a plan to  
3 reduce weakfish harvests in Maryland. It was accepted, and we  
4 will be trying to regulate that this summer, and it is going  
5 to be a minimal by-catch fishery, much like we were talking  
6 about herring? We will probably come up with a scheme much  
7 like herring, for herring, like we did with weakfish.

8           Spiny dog quota went from 9 to 15 million pounds.  
9 The guys on the coast will be happy with this.

10           At the council, the National Marine Fisheries  
11 Service approved a revised black sea bass quota, from 2.7 to  
12 4.3 million pounds. I won't go into the background on this  
13 but everybody is happy with this. I think that is about it.

14           MR. KEEHN: Can I ask one question? And actually it  
15 will be to Bill. My concern with the coastal quota,  
16 increasing the coastal quota -- we are not talking the bay.  
17 We are talking the coast.

18           And I have participated down there in Virginia  
19 Beach. And the shenanigans going on down there, I can tell  
20 every person in this room, that fishery in the south will be  
21 the end, will put us in another moratorium, I guarantee you,  
22 within the next five years. And why in the hell did Maryland  
23 vote for it?

24           MR. GOLDSBOROUGH: Well, what we are talking about  
25 is a different fishery. That is a hook and line fishery.



1           MR. KEEHN: No, I am talking the gill net fishery in  
2 North Carolina, where I see pickup trucks dragging 60 pound  
3 rockfish up on the -- every hillbilly comes out the hills of  
4 North Carolina and makes money on the fishery illegally,  
5 legally, however -- it is wild west.

6           MR. GOLDSBOROUGH: But it is mostly EEZ.

7           MR. KEEHN: Yes.

8           MR. GOLDSBOROUGH: The quota is in state waters.  
9 And the rationale for it is coast wide over the last 15 years,  
10 commercial quotas have been level and the recreational catch  
11 has gone up steadily to where it is 80 percent of the catch,  
12 and it has been consistent, over several years, requests to  
13 deal with that inequity.

14           So all -- and the commission has gone back and forth  
15 on it. And all this is saying is, okay, we are going to look  
16 at that. We are going to develop this addendum to look at  
17 that. That is the reason.

18           MR. KEEHN: But I guess my question is, I mean, it  
19 is not a big economic in Maryland, the Maryland coast, but, I  
20 mean, I have seen the fishery down there. It is just killing,  
21 it is killing the striped bass, the fisheries down there.

22           You know, and there is no size -- it is not like us,  
23 where if it is over 36 inches it goes back in the water. I  
24 have seen pictures guys send me to antagonize me, pictures of  
25 like 70- , 80-, 90-pound rockfish that are getting yanked

1 in -- well, let me finish.

2 And the Coast Guard has admitted, Virginia has  
3 admitted that they can't police the EEZ, so what, we are just  
4 going to make it so that they can catch more illegally?

5 Eddie spoke about -- the strangest thing is Eddie  
6 O'Brien spoke about it at ASMFC, the illegalities going on  
7 down there, and I think it was the old chairman, Paul Diodati,  
8 was right there with him saying we need to get a handle on  
9 this, but nobody has got any money, you know. Nobody has got  
10 any budget to do this or that. Meanwhile, we are seeing less  
11 and less rockfish every year.

12 MR. BROOKS: Larry?

13 MR. SIMMS: You know, on the council we just voted  
14 and recommended to the Coast Guard that they up the penalties  
15 for catching fish --

16 MR. KEEHN: Yes, I see that here.

17 MR. SIMMS: -- in the EEZ. But the other thing, if  
18 there is a big discrepancy, which it is, between recreation  
19 and commercial, instead of looking at -- and I am just  
20 throwing this out there -- instead looking at raising the  
21 commercial, let's lower the recreational.

22 MR. KEEHN: I would be willing -- on the coast? I  
23 would be with you on that.

24 MR. SIMMS: And get it back in line again because  
25 what has happened is the recreational population has grown and

1 so they are catching more and more fish at the creel limits  
2 that they have always had, and you need to cut back on that.

3           They allow the captain and the crew member to have  
4 two fish. They could cut back on that. Two fish, and they  
5 are big fish, is too many to start with. We live with one  
6 fish, so I don't understand this mentality there that you have  
7 got to have all these fish.

8           I would look at instead of raising the commercial  
9 quota is cutting back on the recreational quota.

10           MR. BROOKS: Bill?

11           MR. GOLDSBOROUGH: I suggested that very thing  
12 within our delegation, Maryland delegation.

13           I voted against it, by the way. Russell and Tom  
14 voted for it, so the Maryland vote was for it, but their vote  
15 -- Russell's, simplified down, was primarily because we have  
16 gotten inequity that is overdue --- . Tom's, to simplify his  
17 down, was, hey, this isn't saying we are going to do it. This  
18 is saying we are going to evaluate it.

19           And mine was very much like yours, Brian. Mine was  
20 the stock has real warning signs in it from mycobacteriosis to  
21 that mouth of the bay and further south fishery and all those  
22 violations, which some estimates have over 10 times the size  
23 of our trophy fishery in Maryland.

24           There are too many concerns, and so I voted against  
25 it, but I told both Russell and Tom, within our delegation,

1 that if we were to actually get down to considering voting for  
2 an increase in quota, we ought to put on the table some things  
3 like that. And I said that specific thing.

4 That if you are going to raise one, you ought to  
5 lower the other. If you are trying to achieve equity, you  
6 ought to try and do it without increasing the overall catch  
7 under the current circumstance with the Chesapeake stock.

8 **MOTION**

9 MR. KEEHN: Well, I make a motion then for that  
10 coastal, instead of a coastal commercial increase, I make a  
11 motion that Maryland recommends a coastal recreational  
12 decrease.

13 MR. BROOKS: Okay. You got that, Marty?

14 MR. SIMMS: I will second that.

15 MR. GOLDSBOROUGH: Instead of or you mean --

16 MR. KEEHN: Instead of. You know, because I can't  
17 say this. I mean, if you guys see it, it ain't fishing. It  
18 is just straight up killing. If you guys ever see that  
19 fishery --

20 MR. SIMMS: Both recreational and commercial.

21 MR. KEEHN: I have fished for rockfish my entire  
22 life. You have, J.R. How many 50-pound rockfish you caught  
23 in your life?

24 MR. GROSS: I could count them on one hand.

25 MR. KEEHN: Yeah, I have caught 2. That is a daily

1 | occurrence for -- there is 10, 12 coming in Virginia Beach and  
2 | North Carolina. I mean, that is our future.

3 | MR. BROOKS: Marty, you got that?

4 | MR. SIMMS: I tell you what really gets me is when  
5 | the hook and liners -- the Coast Guard comes to them, and they  
6 | dump the fish. Those fish are dead and gone. They don't swim  
7 | away. And then they turn right around after the Coast Guard  
8 | and go back out and still catch their limit.

9 | MR. KEEHN: And some of my guys participate in that  
10 | fishery and it is just going to be the death of the rockfish.  
11 | We are going to be right back in a moratorium.

12 | MR. SIMMS: We are going to be the ones to pay the  
13 | price right off because they will cut back their trophy  
14 | season.

15 | MR. KEEHN: Exactly.

16 | MR. BROOKS: We got a motion made by Brian, seconded  
17 | by Larry.

18 | MR. GOLDSBOROUGH: Read the motion again, please?

19 | MR. GARY: That Maryland, in lieu of increasing the  
20 | commercial coastal allocation, make a reduction to the  
21 | recreational coastal allocation.

22 | MR. BROOKS: Comments?

23 | MR. GOLDSBOROUGH: From the standpoint of achieving  
24 | more equity, that makes sense to me. From the standpoint of  
25 | just trying to cut down the overall catch to be conservative,

1 that makes sense to me, but seems to me what our concern is  
2 here is that fishery. That illegality going on, and if we are  
3 going to make a motion, we ought to be making a motion to deal  
4 with that.

5 MR. KEEHN: Okay, I will agree with you. That  
6 is -- let me give you a little history of the motion. My  
7 concern is that first of all MRFSS hasn't really been tracking  
8 what they consider wave 1, which is that fishery down there.

9 MRFSS, which we all live and die by, hasn't even  
10 tracked it, and the estimate for the fish down there is  
11 between 200,000 to 800,000 fish. Now that is one hell of an  
12 estimate. You know what I mean?

13 But that should tell you something right there. If  
14 they are estimating, you know -- if they are off by 600,000  
15 fish, that should tell you something. Those fish are being  
16 caught down there. So we got funding to track wave 1, but I  
17 found out that is not going to happen this year. Apparently  
18 it is next year, so that is another year that we are losing  
19 all these --

20 In Maryland, those big fish, if you had six people  
21 on a boat, you are allowed six fish. Just as Larry said, in  
22 Virginia Beach and North Carolina, Virginia Beach  
23 specifically, you are allowed 16 fish. So, you know what I  
24 mean, they can catch more in a week than we can catch in our  
25 entire trophy season.

1           And believe me, there are three-mile backups on  
2 weekends for launching boats at the boat ramps. Three-mile  
3 backups. Every hotel is booked up in Virginia Beach. I will  
4 amend my motion for that fishery. The Virginia-North Carolina  
5 fishery.

6           MR. GOLDSBOROUGH: What it should be  
7 specifically, I am not sure.

8           MR. KEEHN: One fish per person instead of  
9 increasing --

10          MR. SPEIR: So the motion is instead of recommending  
11 a coastal commercial increase, we recommend that the  
12 recreational fishery in --

13          MR. KEEHN: Virginia Beach and North Carolina.

14          MR. SPEIR: -- be reduced.

15          MR. KEEHN: Reduced. One fish per person.

16          MR. BROOKS: Okay. Amended motion. Second that?  
17 Amended motion seconded by Larry. Okay, any more discussion?

18          MR. GOLDSBOROUGH: I will just say I am in support  
19 of that sentiment and I am going to vote for it, but I am not  
20 sure that within the framework of the ASMFC Coastal Management  
21 Plan you are going to get too far with that.

22          MR. KEEHN: Understood, but if you don't start  
23 somewhere, you don't get anywhere.

24          MR. BROOKS: Okay, public comment?

25          MR. GROSS: I got one question for Bill. Bill, in

1 all this, how friendly is Maryland, bad does Maryland need  
2 Carolina because in the midst of this --

3 MR. KEEHN: I know what you are saying.

4 MR. GROSS: Because I am thinking here now if you  
5 get into one fish, it may come back to haunt us in the end.

6 MR. SIMMS: You may want to amend it not to one fish  
7 creel limit. You may want to amend it to cut the total quota  
8 down. And let them figure out how they do it.

9 MR. GOLDSBOROUGH: It is also a matter of improving  
10 enforcement. It is dealing with it.

11 MR. KEEHN: Larry is right. It should just be a  
12 reduction of the North Carolina-Virginia -- sorry, Harley.

13 MR. SIMMS: But it is not just  
14 North Carolina-Virginia. You are cutting down the total  
15 recreational quota on the coast.

16 MR. KEEHN: That would definitely go nowhere. But  
17 the fishery that is killing us is that fishery right there.

18 MR. SIMMS: Yeah, but I mean that is what we are  
19 basically asking for.

20 MR. KEEHN: No, I am asking for in Virginia and  
21 North Carolina.

22 MR. SIMMS: I know, but we are asking for -- instead  
23 of increasing the commercial --

24 MR. KEEHN: I know, cut the coastal.

25 MR. SIMMS: Cut the recreational coast wise for



1 recreational fishery down just so we get a more equitable  
2 amount there.

3 MR. BROOKS: Bill?

4 MR. GOLDSBOROUGH: Again, I think the sentiment is  
5 good here but, you know, if you really step back from it the  
6 problem that we have that needs to be dealt with is that we  
7 have got a shift in the migratory pattern of Chesapeake  
8 striped bass.

9 They used to over winter off North Carolina. Now  
10 they are basically over wintering off the mouth of the bay,  
11 and that is giving rise to this new fishery, brand new fishery  
12 we never had before, legal side and the illegal side, that  
13 is -- like you said, Virginia Beach never had that economic  
14 activity that time of year.

15 So it has gone nuts. It is up to 800,000 of these  
16 fish on the Chesapeake spawning stock. Nobody was catching  
17 those fish before. So to me -- and it has got other  
18 implications too. That shift in the migratory pattern is what  
19 is giving rise to this catch and release fishery in the early  
20 season here in Maryland that we have been grappling with.

21 There are other instances up and down the coast. So  
22 to me, at an ASMFC level, maybe not this level but ASMFC  
23 level, what has to happen is you have to step back and  
24 re-evaluate the life cycle, you know, the life history, and  
25 what the pattern of the fishery is so that it is sustainable

1 as well as equitable because it is out of whack now.

2 And you don't want to, on a coastwide management  
3 plan basis, you don't want to deal with it by putting a  
4 band-aid on this part of the problem or that symptom. You  
5 want to say, okay, what is really going on here? Let's make  
6 sure the whole thing is working right.

7 MR. BROOKS: All right, how are we on that motion  
8 then?

9 MR. BENJAMIN: Hey, Jack. I have one comment on  
10 that. We are sitting here trying to make -- push North  
11 Carolina and Virginia to cut their harvest rates back and  
12 everything but I think it is a lot simpler than that.

13 For the last month and a half, all these fish caught  
14 out of Virginia and North Carolina have been caught illegally  
15 in the EEZ. We should make a motion to try to get Virginia  
16 and North Carolina to start enforcing the laws down there.

17 If you want to reduce the big catch of the big fish,  
18 most of these --- of the commercial fisheries are fishing in  
19 the EEZ and nobody is enforcing it. It is the wild west.

20 (Simultaneous discussion)

21 MR. BENJAMIN: And there are trollers down there off  
22 North Carolina, and that record, that fish out of North  
23 Carolina, that record, it come out of the EEZ because I know a  
24 guy who was fishing next to him down there.

25 MR. SIMMS: But it has to be the Coast Guard

1 enforcing down there.

2 MR. BENJAMIN: But somebody needs to start pushing  
3 that.

4 MR. BROOKS: Do you want to amend your motion?

5 MR. KEEHN: No. We have been pushing it. I can  
6 tell you right now. Larry will tell you. We have been  
7 pushing it. You know it. Me and Eddie O'Brien been pushing  
8 it for five years.

9 But I am telling you guys, you mark my words. That  
10 is the end of our fishery unless something gets control of it,  
11 and the only way you are going to get control of it is -- you  
12 are right. It might not pass, but it might get Rhode Island  
13 on our side this time around. Then next time around it might  
14 get New Jersey.

15 We might ruffle North Carolina's feathers, but if we  
16 ignore, we ain't going to have nothing to ruffle with anyways.

17 MR. GOLDSBOROUGH: And on J.R's point from before  
18 about North Carolina and Virginia, notwithstanding that they  
19 will have constituents that will be irritated, both those  
20 state's fishing managers understand this problem needs to be  
21 addressed.

22 MR. KEEHN: Jack Travis has said -- when there are  
23 motions to open up the EEZ, Jack Travis said that would be the  
24 end, that would cause serious -- have a serious impact on the  
25 spawning biomass. So he knows.

1 MR. BROOKS: Okay.

2 MR. SPEIR: Has the motion changed or is it the  
3 same?

4 MR. KEEHN: No, just discussing it some more. Just  
5 to limit the catch was the last change. You had that, right.

6 MR. BROOKS: I think Harley scratched --

7 MR. SPEIR: I scratched that out.

8 MR. BROOKS: Any other discussion on the motion?

9 (No response)

10 MR. BROOKS: Public comment?

11 (No response)

12 MR. BROOKS: Vote on the motion. All those in favor  
13 of the motion say aye.

14 (Chorus of ayes)

15 MR. BROOKS: Opposed?

16 (No response)

17 MR. BROOKS: Abstentions?

18 (No response)

19 MR. GARY: Passes 9-0.

20 MR. BROOKS: All right. Is that it, Harley?

21 MR. SPEIR: I don't have anything else.

22 MR. BROOKS: That is all the agenda items.

23

24

25

**Commission Business**

***by John Brooks, Chair***

MR. BROOKS: There is one thing I would like to bring up. Over at the Department of Agriculture, there has been a budget analyst who has recommended the complete dissolving of the seafood marketing over there.

I think it is suggested that the \$10 surcharge that is collected over here that funds that marketing campaign over there, the \$10 would be better used or would be transferred over to here to the DNR to use I guess as you all see fit.

To me that is a scary thought that they would think that they don't need to market seafood anymore and use those funds for something else. I would like to see this commission come out with a motion that would not condone this but in opposition of it and reinforce how important that seafood marketing is to the seafood industry here in Maryland.

MR. DUKES: Is that your motion?

MR. BROOKS: Something like that.

MR. SIMMS: How about we make a motion that they put seafood marketing back in DNR where it first originated.

MR. GROSS: I will second that.

MR. SPEIR: Bill is here. We can put him back in charge of it.

MR. BROOKS: Put him back to work over here, huh?

MR. GROSS: I think it is important.

1           MR. BROOKS: Well, the motion could take any form we  
2 want it to take.

3           MS. JACQUETTE: No offense to DNR, but I don't think  
4 I want to just give them my \$10 just to do whatever they want  
5 to. I think that we really need to have something that we are  
6 going to get out of that \$10 if we are going to pay for it.

7           MR. SIMMS: Yes, we don't want the money to just  
8 come here with nothing done with it.

9           MR. JACQUETTE: I don't want to just give it to DNR.  
10 Sorry, guys, I don't want to hurt anybody's feelings. But I  
11 want to see something come out of it for us.

12           MR. SIMMS: That is why I said move seafood  
13 marketing back over here where we have got some control of it.

14           MR. GARY: Have you all been happy with the job that  
15 the Department of Agriculture has done?

16           (Chorus of no)

17           MR. BROOKS: They have done some good things  
18 but -- the Department of Agriculture hosts these buyer forums,  
19 where they match up buyers and suppliers. And just last year  
20 they included the seafood, and it has been very good for the  
21 seafood folks that have gone.

22           But it took all these years for them to include  
23 seafood. It was very successful this year. But --

24           MR. GROSS: But now they don't want to do it  
25 anymore.

1 MR. BROOKS: This analyst suggested they do away  
2 with the seafood marketing part of it completely. It is down  
3 to three people. It used to be like 15, 18, 20 people years  
4 and years ago.

5 MR. SIMMS: They have cut the budget on it so much.

6 MR. BROOKS: They are going, going, going and now  
7 they want it gone.

8 MR. SIMMS: Reminds me of the Oyster Seed Program.  
9 We cut the budget, cut the budget until you don't have it no  
10 more.

11 MR. DUKES: But yet you are still paying a surcharge  
12 for that.

13 MR. BROOKS: But certainly I will entertain any  
14 motion you guys want if you want to bring it to DNR. The main  
15 thing is that the program stays intact somewhere.

16 **MOTION**

17 MR. SIMMS: Let's make a motion for the program to  
18 stay intact, and then we make another motion that maybe it  
19 ought to be brought back to DNR. DNR don't want it because it  
20 is going to cost some money. Because the \$10 doesn't fund the  
21 whole --

22 MR. BROOKS: No. There are staffing positions too  
23 that are provided for over there at that agriculture. Okay.  
24 We got a motion from Larry that they keep --

25 MR. GARY: Keep the seafood marketing program intact

1 and --

2 MR. SIMMS: The priority is to keep it where it is  
3 and keep it intact.

4 MR. GARY: -- at the Department of Agriculture.  
5 Keep it intact and keep it in place at the Maryland Department  
6 of Agriculture. Is there a second?

7 MR. DUKES: Second.

8 MR. GARY: Second by Russell.

9 MR. BROOKS: More discussion?

10 (No response)

11 MR. BROOKS: Public comment?

12 (No response)

13 MR. BROOKS: All in favor of the motion signify by  
14 saying aye.

15 (Chorus of ayes)

16 MR. BROOKS: Opposed?

17 (No response)

18 MR. BROOKS: Abstentions?

19 (No response)

20 MR. GARY: Passes 9-0.

21 **MOTION**

22 MR. SIMMS: The next thing is, if they do dissolve  
23 it, then we either want to eliminate the \$10 fee on our  
24 license or have it somewhere where we can control it, that we  
25 can do something with it that will help us.



1           MR. BROOKS: I would rather not eliminate it  
2 personally. We need the promotion of our seafood.

3           MR. SIMMS: We need promotion.

4           MR. BROOKS: Absolutely. I mean, we are talking  
5 about bringing these oysters back and all this. How are you  
6 going to solve it?

7           MR. GROSS: I will second that motion?

8           MR. BROOKS: What is the motion, Larry?

9           MR. SIMMS: Well, I will change it a little bit. If  
10 they don't -- if they abolish it, that we bring the money back  
11 over to DNR but not go in DNR's coffers just for anything. It  
12 goes into seafood marketing.

13           MR. BROOKS: And they are going to have to fund the  
14 seafood marketing staff.

15           MR. SPEIR: \$60,000 a year?

16           MR. SIMMS: I don't think DNR can pick up that extra  
17 staff but --

18           MR. BROOKS: We have got to have the staff to do it  
19 or it still gets lost.

20           MR. SIMMS: What I am talking about is if they  
21 abolish it, we are out of business, right? We are still  
22 paying that \$10. We either want to control where that \$10  
23 goes, or we don't want to have to pay it. That \$10 don't get  
24 us much in the market.

25           MR. BROOKS: No, but it does get you something.

1 MR. SIMMS: How much, about \$150,000?

2 MR. : (off mic) \$72,000.

3 MR. SIMMS: \$172,000?

4 MR. KEEHN: \$72,000.

5 MR. SIMMS: Oh, only \$72,000?

6 MR. BROOKS: They haven't been working on much, but

7 they do make a difference, what they got.

8 MR. SIMMS: Well, they been working with their other

9 stuff, marketing agriculture stuff.

10 MR. BROOKS: That is right, they piggyback

11 sometimes.

12 MR. SIMMS: So it is only \$72,000. We would

13 probably be better off -- if they abolish it, that we abolish

14 the \$10 fee.

15 MR. BROOKS: Motion? Is that a motion?

16 MR. SIMMS: Yes.

17 MR. GARY: So that motion is that if the seafood

18 marketing program is eliminated --

19 MR. SIMMS: That we abolish the \$10 fee.

20 MR. GARY: The \$10 seafood marketing surcharge would

21 be abolished.

22 MR. BROOKS: Is there a second? J.R.?

23 MR. GROSS: Yes, I will second that.

24 MR. BROOKS: Discussion? Bill?

25 MR. GOLDSBOROUGH: Just so I understand, that \$10

1 fee right now it is charged for the purpose of seafood  
2 marketing and nothing else, right?

3 MR. BROOKS: I think so.

4 MR. SIMMS: That is what it is. It goes right  
5 directly to that.

6 MR. GOLDSBOROUGH: Who is it charged to, all license  
7 holders?

8 MR. SIMMS: Every license holder pays \$10. Every  
9 commercial license holder.

10 MR. BROOKS: Public comment on the motion? Bill?

11 MR. GARY: I hate to make you do this, but can you  
12 come up here?

13 **Public Comment**

14 MR. BROOKS: Start with your name, Bill.

15 MR. SEILING: Bill Seiling. When the industry went  
16 to Senator Baucus years ago, the state was threatening to  
17 withhold any more support for the seafood industry unless they  
18 put some tangible evidence of their own mutual support in  
19 there.

20 We went to Larry Simms and the Watermen's  
21 Association and said, you know, is this agreeable? And  
22 everybody agreed. Senator Baucus put that in -- there was an  
23 amendment on another bill, I forget which one it was, but it  
24 passed and has been in place ever since.

25 I first thing think it is a mistake to eliminate

1 some contribution from the industry toward promoting and  
2 getting better prices for our seafood. Whether it stays at  
3 DNR or stays at agriculture -- I mean, that is a good  
4 question. There are pros and cons both ways, but I do think  
5 the \$10 has a symbolic aspect as much as it does a monetary  
6 effect, and I think it would be a mistake to take that away.

7 MR. SIMMS: My only thing, Bill, is I don't want the  
8 \$10 to come to DNR, and they spend it on something other than  
9 seafood --

10 MR. SEILING: Well, if I am not mistaken, when that  
11 was passed -- and Senator Baucus was very careful when he  
12 wrote that -- that it could only be used for seafood  
13 marketing. It could not be used for any other purpose.

14 So in one respect you are correct. If DNR was just  
15 going to take that money and put it into law enforcement, for  
16 example, or something, that would not be legal. It would have  
17 to be -- it could not be collected for that purpose.

18 MR. SIMMS: Well, we could figure out a way to spend  
19 \$70,000 on one ad or something couldn't we?

20 MR. SEILING: Well, certainly, but I am just saying  
21 what, I am trying to tell -- you are right -- and what I am  
22 saying is I don't think you should eliminate the fact that the  
23 industry does contribute something tangible, be it \$10 per  
24 license or whatever other thing, whatever other formula it was  
25 ever decided on was better. But at least at this point it is

1 \$10 per license.

2 But that is a valuable tool when you go to the  
3 legislature. You can say the industry is contributing  
4 something. Maybe it is not a lot, but it is a tangible effort  
5 by each person to --

6 MR. SIMMS: Well it is like we contribute to the  
7 oyster program. I mean, we contribute a right good bit to the  
8 oyster program and I get nothing out of that either.

9 MR. GROSS: Rockfish too.

10 MR. SEILING: And I think honestly, DNR -- be honest  
11 about it -- I think they would use the money the best way they  
12 could if that was what ended up being happening is that the  
13 money would be reported back to DNR because the other program  
14 decided to, I am sure DNR, with the advice of this group or  
15 any other group, would see that the money was used as wisely  
16 as they could.

17 I don't think they would try to --

18 MR. SIMMS: Can we withdraw the motion that has  
19 already been passed on? Or can we substitute it or what can  
20 we do?

21 MR. GARY: Well, you haven't made a vote. So --

22 MR. BROOKS: You are talking about the motion that  
23 is on the floor now? Or the previous motion?

24 MR. SIMMS: The one that says we do away with  
25 charging the \$10.

1 (Simultaneous conversation)

2 MR. SIMMS: Well, let's amend that then. Let's say  
3 that if they do away with seafood marketing at the Department  
4 of Agriculture, that the money would come back to the  
5 Department of Natural Resources to be used for marketing  
6 purposes only.

7 MR. SEILING: Seafood marketing.

8 MR. SIMMS: Seafood marketing.

9 MR. BROOKS: Should we ask for involvement from this  
10 group in how that money is spent?

11 MR. SIMMS: Yes, that would be good that if  
12 that --

13 MR. BROOKS: It could be brought here and we  
14 could --

15 MR. SIMMS: -- brought here, the Tidal Fish Advisory  
16 Board would vote on how it should be spent.

17 MR. BROOKS: Rather than just spend it on marketing.

18 MR. SIMMS: Right.

19 MR. GOLDSBOROUGH: I guess Larry is asking to amend  
20 his own motion. And then the seconder has to agree to that.

21 MR. GROSS: Yes.

22 MR. BROOKS: So we got an amended motion. Everybody  
23 understands, J.R. you understand the amended motion?

24 MR. GROSS: Yes.

25 MR. BROOKS: You will second that?

1 MR. GROSS: Yes, I will second that.

2 MR. BROOKS: Is that all the discussion?

3 (No response)

4 MR. BROOKS: Public comment?

5 (No response)

6 MR. BROOKS: Okay, all those in favor of this  
7 amended motion signify by saying aye.

8 (Chorus of ayes)

9 MR. BROOKS: Opposed, no?

10 (No response)

11 MR. BROOKS: Abstentions?

12 (No response)

13 MR. BROOKS: Motion carries. Okay, Harley says one  
14 more thing.

15 MR. SPEIR: Right now the commercial hook and line  
16 flounder size and creel limits are the same as recreational  
17 size and creel limits. There is a technical problem with the  
18 way the regulation is worded, and we are going to modify the  
19 wording in an upcoming regulation to make it clear that the  
20 commercial hook and line flounder size and creel limits are  
21 the same as recreational size and creel limits.

22 It has been that way for a number of years. I just  
23 needed --

24 MR. SIMMS: I never liked it when they done it, and  
25 I still don't like it because it is the only time we are

1 separating commercial size limits from making them the same as  
2 recreational.

3 MR. SPEIR: There is one other, walleye.

4 MR. SIMMS: Walleye? But it is already done so it  
5 ain't nothing we can do about it.

6 MR. KEEHN: What is it going to be? 19? How big is  
7 it going to be?

8 MR. SPEIR: 18 ½.

9 MR. KEEHN: 18 ½ to 19.

10 MR. DUKES: I thought you were going the same size  
11 with those -- we said one size would be the same size as  
12 Virginia. Everybody would be same size?

13 MR. : (off mic) No, the ocean and the bay  
14 would be the same.

15 MR. SPEIR: Yes.

16 MR. BROOKS: Okay, thank you Harley. Anything from  
17 the commissioners?

18 (No response)

19 MR. BROOKS: Anything from the public?

20 (No response)

21 MR. BROOKS: We stand adjourned.

22 (Whereupon, the meeting adjourned at 9:25 p.m.)  
23  
24  
25